



THE INTERPRETER:

OR

BOOKE CONTAINING the Signification of Words:

Wherein is set foorth the true meaning of all, or the most part of such Words and Termes, as are mentioned in the Lawe VV riters, or Statutes of this victorious and removed Kingdome, requiring any Exposition or Interpretation.

A Worke not onely profitable, but necessary for such as desire throughly to be instructed in the knowledge of our Lawes, Statutes, or other Antiquities.

Collected by IOHN COWELL Doctor, and the Kings
Maiesties Professour of the Civill Law in the
Vniuersitie of Cambridge.

In Legum obscuritate captio.



Printed by IOHN LEGATE Anno 160





To the most reverend Father in God, his especiall good Lord, the Lord Archbishop of Canterburie, Primate and Metropolitan of all England, and one of his Maiesties most Honourable Print Councell.



FTER long deliberation, I hardly induced my felfe to craue your gracious protection toward this simple worke: valewing it at so lowe a price, as I thinke it hardly woorth the respect of any graue man, much lesse the fauourable aspect of so honorable apersonage. Yet the remembrance of those your fatherly prouocations, whereby, at

my comming to your Grace from the Vniuersitie, you first put me vpon these studies, at the last by a kind of necessitie inforced me to this attempt: because I could not see how well to anoide it, but by aduenturing the hatefull note of vnthankfulnesse. For I cannot without dissimulation, but confesse my selfe perswaded, that this poore Pamphlet may proue profitable to the young Students of both Lawes, to whose aduancement that way, I have of late addicted mine indeuours: else were I more then madde to offer it to the world: and to offer it without mention of him, that by occasioning of this good, more or lesse, deserve the prime thankes, were to prove my selfe vnwoothie of so grave advice.

And therefore howfoeuer I accompt this too much boldnesse in respect of the subject: yet could I be exceedingly glad, it might please your Grace to ascribe mine intention to the integrity of my duty. For he that meaneth truly wel, & cannot perform much must

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The Epistle Dedicatorie.

needes reioyce at the good acceptance of that litle which he performeth.

All I craue for this at your Graces hands, is patience and pardon for this enterprile, with the continuance of those your many fauours, that hitherto to my great comfort I haue enioyed. And so my long observation of your judicious disposition, having taught me, what small delight you take in affected complements and verball commendation, without more words, in all true humblenes, I beseech the Almighty long to continue your Grace in health and prosperitie, to his glorie, and the good of his Church.

Your Graces at all Commaundment,

Io. COWELL.

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To the Readers.

ENTLE Readers, I heere offer my selfe to your censures, with no other desire, then by you to be admonished of my faults. For though 1 deeprofesse the amplifying of their wworkes, that have gone before me in this kinde, and have both gathered at home, and brought from abroade some ornaments for the better embellishing of our English laws:

fome ornaments for the better embellishing of our English lavves: yet am I neither so vaine, as to denie mine imperfections, nor so passionate, as to be offended at your charitable reformation. Nay, my true ende is the advancement of knowledge; and therefore have I published this poore worke, not onely to impart the good thereof to those young ones that want it: but also to drawe from the learned the supply of my defects: and so by degrees, if not my selfe to finish this modell, yet at the least, by the heate of emulation to incense some skilfuller architect thereunto. Yea, I shall thinke my paines sufficiently recompensed, if they may be found but worthy to slirre up one learned man to amend mine errours.

The Civilians of other nations, have by their natuall industries raised this kinde of worke in their profession, to an inexpected excellencie. Ihave seene many of them that have be lowed very profitable and commendable paines therin: and lastly one Calvinus a Doctor of Heidelberge, like a laborious Bee, hat by gathered from all the former, the best inyce of their flowers, and made up a hive full of delectable honic. And by this example would I gladly incite the learned in our common lawes and antiquities of England, yet to lend their advice, to the gayning of some comfortable lights of prospects toward the beautifying of this auncient palace, that hitherto hath bene accoumpted (how source substantiali) yet but darke and melancholy.

Whosoever will charge these my traveiles with many over-* 3 sights, fights, he hall neede no folemme paines to prooue them. For 1 will eafily confesse them. And, vpon my view taken of this booke sithence the impression, I dare assure them that shall observe most faults therein, that I by gleaning after him, will gather as many omitted by him, as he shall shew committed by me. But I learned long sithence out of famous Tullie; that as no mans errours ought to be folowed, because he sayeth some things well: so that which a man saith well, is not to be reiected, because he hath some errours. No man, no booke is voide of imperfections. And therefore reprehend who will, in Gods name: that is, with severenes, and vvithout reproche. So hall he reape hartie thankes at my hands: and by true imitation of the most indicious that ever vorote, more foundly helpe on this pointe of learning to perfection in a fevue monethes, then I by to sing and tumbling my bookes at home, could possibly have done in many yeares. Experience hash taughs me this in mine Institutes lately set forth: by publishing vuhereof I have gained the judicious observations of divers learned gentlemen upon them, which by keeping them private I could never have procured. By which meanes I hope one day to commend them to you againe in a more exact puritie, and so leave them to future times for such acceptance, as it hall please God to give them.

I have in some towardnes a trast (de regulis iuris) wherein my intent is, by collating the cases of both lawves, to shewe,
that they both be raised of one foundation, and differ more in language and termes then in substance, and therefore were they reduced to one methode (as they easily might) to be attained (in a maner)
with all one paines. But my time imparted to these studies, being
but stolne from mine emploiments of greater necessitie, I cannot
make the hast I desire, or perhaps that the discourse may desire.
Wherefore wntill my leisure may serve to performe that, I intreate

you louingly to accept this.

One thing I have done in this booke, vobereof, because it may seeme straunge to some, I thinke to yeld my reason: and that is the inserting not onely of words belonging to the art of the lavve, but

To the Readers.

of any other also, that I thought obscure, of what sort soeuer, as Fish, Cloth, Spices, Drugs, Furres, and such like. For in this I follow the example of our Civilians, that have thought it their part to expound any thing they could meete with in their walke. And in deede a Lawyer professeth true Philosophy, and therefore should not be ignorant (if it were possible) of either beastes, foules, or creeping things, nor of the trees from the Cedar in Lebanon, to the Hyssop that springeth out of the weall. And therefore, if I have either omitted any hard word within my circuit, or set it downe not expounded; I give you good leave to impute the one to my negligence, the other to mine ignorance: and so comend these my paines to your best profit, and you wanto God. November. 3. 1607.

Io. Covvell.





These faults I have noted (according to the words alphabetically) which of necessitie require emendation.

The word Rawnge, for Pouralleeses, read Pourallees. In the word Reasonable ayde, reade Claimeth of his tenents, houlding &c. For the word Remittere, read Remitter. In the word Returns habendo, for Expleuied, reade Repleuied. In the word Scor and Lot, for Aulote & Auscote, reade Anlote & Anscote. For the word Statutum delaboriis, reade Laborariis. In the word Terme, for Certifie, reade Rectifie. For the word Thrid with hawan man, reade Thrid nith. For the word Tost, read Tost In the word Tolle, for ξελόνια, or ζελονια, read Τελωνία, or τελωνία. For ζελες, read τέλος. In the word Verdour, for Verdieir, read Verdeur. For the word Vicountie, reade Vicountiel. In the word Watlingstreat, for Tosse, read Fosse: in the word Widow, for Vide, tead Vuide, For the word Woolferthfod, read Wolferhefod.





The fignification of Words.

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BATE (Intrudere) secmeth to be taken from the French Abatre, i. decutere, destruere, pro-

sternere. It is in the Writers of the Common law yfed both a-Cliuely and passiuely, or rather neuterly: as to abate a castell or a fortlet, Old. Nat. br. fo 45. which in Westm. 1. cap. 17. is plainely interpreted to be as much, as to beate downe. And to abate a Writ, is by some exception to defeate or overthrow it, Britton. cap.48. And in this Active voice it hath two fignifications: one generall, another speciall: generall, as in the former examples: and againe in Kitchin fol. 173. Abater meason, is to ruine or cast downe a house: especiall, as in the Old. Nat br.fol. 115. A stranger abateth, that is, entreth ypon a house or lad void by the death of him that last possessed it, before the heire take his possession, and so keepeth him out. Wherefore as he that putteth out him in possession, is said to disseise so he that steppeth in betweene the former possession and his heire, is said to abate. In the neuter signification it is vsed, ann. 3 4. Edw. 1. stat. 2. of ioynt tenants, viz. the Writ of the demandant shall abate, that is, shall be disabled, frustrated or ouerthrowne. So in Stawnfords plees of the crowne, fol. 148. In this case a man may say, that the appeale abateth by covin, that is, that the accusation is deseated by deceit. See Intrussion.

Abatement (Intrusio) cometh also of the French (abatement) i. deiectio, decuffio, prostratio, and is likewise vsed as the verbe(abase) both actively and paffively: somtime fignifying the act of the abator; as the abatement of the heire into the land before he hath agreed with the Lord. Old nat. br. fol. 91. Sometime the affection or passion of the thing abated, as abatement of the writ. Kitchin. fol. 214. And in this fignification it is as much as exceptio dilatoria with the Civilians, Brit.cap. 51. or rather an effect of

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it. For the exception alledged. and made good, worketh the abatement. And this exception may be taken either to the infufficiencie of the matter, or to the incertaintie of the allegation by the misnaming of the plaintiffe, defendant, or place, to the variance betweene the Writ and the specialtie, or record, to the incertaintie of the VVrit, count, or declaration, or to the death of the plaintiffe or defendant : new tearmes of the law, verbo, Abatement of Writ. And he that will reade more of this, may looke vpon the new booke of Entries, verbo Briefe.

Abatour (Intrusor) is he that abateth, that is, thrusteth into a house or land, void by the death of the former possessor, and not yet entred or taken vp by his heire. Old. nat. br. fol. 115. Perkins fol. 76. If there be a disself-for, abator, or intrudor vpon any land by the deceipt of the wo-

man,&c.

Abbot (Abbas) in French Abbe, is by skilfull Linguists said to come from the Syriacke word (Abba) i. pater, and in our common law is vsed for him that in the covent or fellowship of Canons hath the rule and preheminence. He is by Instinian. novel. constitut. 115. S. Sonowor. tearmed Archimandrita, of others Canobiarcha, vel Archimanachus,

Hoto. in verbis feuda. Of these some here in England were mitred, some not: Stowes annals, pa. 442. And those that were mitred, were exempted from the jurisdiction of the diocesan, hauing in themselues episcopal authoritie within their precincts, and being also Lords of the Parlament. Of this kind thus faith Corasius; Aliqui Abbates habent mrisdictionem episcopalem, ad quos cum Ecclesia pleno sure pertineat, in eorum Monasteriis Episcopus nihil exercet, cap. Ea que. Vbi Panor. extra de statu Monacho. Hac di-Etus author in Paraphrasi de sacerdotio.materia,parte pri. cap. 9. And these were called Abbots soueraigne, anno 9. R. 2. cap 4. and Abbots generals, as M. Fearne noteth in his glory of generofitie. pag. 126. The other fort were subiect to the diocesan in all spirituall gouernement, cap. Monasteria, 18. quest. 2.cap. Abbas. & cap. visitandi, cum quatuor sequentibus ibidem. ca. Omnes. 16. quaft. 7. 6 cap. Cum venerabilis. extra de religiosis domibus. And as Abbots, so were there Lord Priors also, who both had exempt jurisdiction, & were Lords of the Parlament. as appeareth by S. Edward Cooke de jure Ecclosiastico, fol. 28.a.

Abeyance, scemeth to be deriued from the French (Abayer. i. allatrare,) to barke at, as dogs do against a stranger, or spaniels

at a Fesant put to the pearke. So children are said (bayer a la mamme) when feing the dug, they firuggle and make meanes towards it. And they likewise (bayer a l'argent) qui spe at que animo incumbunt pecunia. This word in Litleton, cap. Discontinuance, is thus yfed. The right of Fee-fimple lyeth in abeyance: that is,(as himselse interpreteth) all onely in the remembrance, intendmet. and confideration of the law. Alfo in the same place: the Francke tenement of the glebe of the parsonage, is in no man during the time that the parsonage is void, but is in abeyance. And againe: It is a principle in lawe, that of every land there is Feesimple in some man, or the Feesimpleis in abevance. Considering these places, and comparing them with the fignification of the French word, I am driven to thinke, that our auncient Lawyers would fignific hereby a kind of hope, or longing expectance: because that those things that be in abeyance, though for the present they be in no man, yet they are in hope and expectation belonging to him that is next to enioy them. For I find also in the French, that un bayard, is avidus spectator, a greedy beholder. I cannot in mine owne opinion better compare this, then to that which the Civilians call bareditatem jaceniem. For as Bracton faith (lib. 1. eap. 12. nw. 10) Heredit as incens mullins eft in bonis ante aditionem. Sed fallit in hoc quia sustinet vicem persona defunctivel quia speratur futura hereditas eius qui adibit. So that (as the Civilians fav) goods and lands do iacere, whilest they want a possesfor, and yet not fimply, because they had lately one, and may shortly have another: so the common Lawyers do say, that thingsin like estate are in abevance. Reade farther of this in the new tearmes of lawe, and in Plowdens reports, cash VValsingkam, fol. 554. a.

Abet (Abettare) may without absurditie be said to proceed fro the French (bouter) i. ponere, apponere, impellere, propellere. It signifieth in our common law as much as to encourage or set on. The substantiue (abetment, abettum) is vsed for an encouraging or setting on, Stawnf.pl.car.fol.105. And also (abettour) for him that encourageth or setteth on, Old nat. br. fol. 21. But both verbe and noune is alway vsed in the

cuill part.

Abishersing (according to Rastall in his Abridgement, titulo Exposition of law words) is to be quit of amerciaments before whom soeuer of transgression. The author of the new tearmes calleth it otherwise (Mishersing)

and

and faith it is to be quit of amerciaments before whom foeuer of transgreffion proued. I am of opinion that the word originally fignifieth a forfeiture, or an amerciament, and that it is much transformed in the writing by misprision and ignorance of Clerkes: thinking it very probable, that it proceedeth from the Germane verbe (Beschetzen) which is as much as fifeo addicere vel confiscare. It seemeth by the former authors to be tearmed a freedome or libertie, because he that hath this word in any charter or grant, hath not onely the forfeitures and amerciaments of all others within his fee for transgressions, but also is himself free from all fuch controule of any within that compasse.

Abiuration (Abiuratio) fignifieth in our common law afworne banishment, or an oath taken to forfake the realme for cuer. For as Stawnford pl.cord. li. 2. cap. 40. faith out of Polydore Virgils eleuenth booke of Chronicles, the denotion toward the Church first in S. Edward a Saxon king, and fo confequently in al the rest vntil anno 22. H. 8. was fo earnest that if a man having committed felonie, could recouer a church or church yard before he were apprehended, he might not be thence drawne to the viuali trial of lawe, but confessing his fault

to the Iuffices at their comming, or to the Coroner, before them, or him give his oath finally to forfake the realme. Of this you may reade a touch, anno 7. Hen. 7. cap. 7. But the forme and effect of this you may have in the old abridgement of Statutes, titulo. Abinration.nu. 2. taken out of the auncient Tractate intituled. De officies coronacorum: 25 also in Cromptons Tractate of the office of the Coroner, fol. 206.b. and in the new booke of entries, verbo, Abiuration: and in Andrew Horus myrror of Iustices, lib. 1. cap. del office del coroner. This part of our lawe was in some fort practifed by the Saxons, as appeareth by the lawes of king Edward fet out by M. Lamberd, nu. 10. but more directly by the Normans, as is euident by the grand cuftomarie, cap. 24. where you have these words in effect: He that flyeth to a Church, or holy place, may flav there for eight dayes. And at the ninth day he must be demaunded, whether he will yeeld himfelfe to fecular inflice, or hold him to the Church. For if he will, he may yeeld himfelfe to the lay Court: if he will cleave to the Church, he shall forsweare the countrie before the Knights and other people of credit, which may witnesse the act, if need require. The forme of the oath is likewise there fet downe with

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the rest of the proceeding in this matter very agreable with ours. This mercie as well of the Saxos as Normans derined vnto vs. fomething resembleth that of the Romaine Emperors toward fuch as fled to the Church, lib. 1. Co. titulo 12. or to the images of themselves, eodem titulo 25. And also that of Moses tou hing the cities of refuge, Exod. cap. 21 vers. 13. Numb.cap. 35.vers. 6.11 12. Deut. 19. verf. 2. Iof. 20. verf. 2. Butas it was in our auncestors dayes larger by great oddes in this realme, so had it lesse reason, as it may appeare to all that will compare them. Of all circumstances belonging to this abiuration, you may farther reade the new tearmes of lawe: Stawnford vbi supra, and fuch others. But this grew at the last vpon good reason to be but a perpetual confining of the offender to some Sanctuarie, wherein, vpon abiuration of his liberty and free habitations, he would chuse to spend his life, as appeareth, anno 22. Hen. S. cap. 14. Aud this benefire also by other statutes is at the last wholly taken away. So that abiuration at this day hath place but in few cases: and if it beinflicted upon any, it is not a confining to a Sanctuarie (for there be no Sanctuaries remaining amongst vs) but a sworne banishment out of the Kings do-

minions. This the Civilians call exilium, or deportationem, tib. 28. Digest stitule 22. de interdictis, rollegatis & deportatis.

Abridge (Abbresiare) cometh of the French (abreger) and in one generall language fignifie th as much as to make shorter in words, holding still the whole Substance. But in the common lawe it feemeth (at the least for themost part) to be more particularly yfed formaking a declaration or count shorter by subtracting or fenering some of the substance therein comprised. As for example: a man is faid to abridge his plaint in an Affife, or a woman her demaund in an action of dower, that hath put into the plee or demand any land not in the tenure of the renant or defendant : and finding that by his answer, razeth those parcels out of the plee, praying anfwer to the reft. So that here (abridger) is not (contrabere) but rather subtrabere. Termes of the lawe. Broke. titulo, Abridgement. and anno 21. Hen. 8. cap. 3. Of this the Civilians have no vsc, by reason of certaine cautelous clauses, they ordinarily have at the end of enery position or article of their libell or declaration to this effect: Et ponit coniunctim, divisim, & de quolibet, & de tali & tanta quantitate vel summa qualis & quanta per confessionem partis adner al

versa, vel per probationes legitimas in fine litis apparebit. And againe, in the conclusion of all: Non assertingens se ad singula probanda, sed petens, viquatenus probaucrit in pramiss, aut eorum aliquo, eatenus obtineat. By vertue of which clauses the plaintiffe faileth not in the end by any ouer or vnder demand, neither is driven to begin his action againe, but obtaineth for so much as he proueth to be due, though not to the heithe of his demaund.

Abridgement (abbreniamentum)

see Abridge.

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Ccedas ad Curiam, is a Writ that lieth for him, who hath receiued false iudgement in a court Baron, being directed to the Sheriffe, as appeareth by Drer, fol. 169. nu. 20. Like as the writ De falso indicio lyeth for him that hath received falle judgement in the county Court : the forme whereof you may fee in Fitzh. nat.br. fol. 18. d.and in the Register fol. 9.6. where it is faid, that this writ lyeth for inflice delayed, as well as faifly given. It is a species of the writ called (Recordare) Register originall, folis. b. and Fitzh. vbi supra.

Accedes ad Vicecomitem is a writ directed to the Coroner comanding him to deliver a writ to the Sheriffe, that having a (pone) delivered ento him, doth

Suppresse it, Regist. origin. fol. 82. Accessory (Accessorius vel Accessorium) is vsed in our common lawe otherwise then among the Civilians. For whereas with them it is generally take for any thing depending vpon another: here though it be fo likewife, yet most commonly and notoriously it fignifieth a man that is guiltie of a fellonious offence, not principally, but by participation: as by commandement, aduice, or concealement. And a man may be accessorie to the offence of another after two forts: by the common lawe, or by statute: and by the common lawe two waies also: that is, before or after the fact. Before the fact, as when one commaundeth or adulfeth another to commit a felony, and is not present at the execution thereof. For his presence maketh him also a principall:wherfore there cannot be an accessorie before the fact in manslaughter, because man-flaughter is sodaine and not prepenfed, Cooke lib. 4. fol. 44. a. Accessorie after the fact, is when one receiveth him, whom he knoweth to have committed felonie. Accessorie by statute is he that abetteth, councelleth, or hideth any man committing or having committedan offence made felony by statute. For though the statute make no mention of abet-

tours,

tours,&c. yet they are by interpretation included. Of all these consult with Stampf. pl.cor. lib. 1. cap. 45. 46. 47. 48. There is also an accessorie of an accessorie, as he that wittingly receiveth an accessorie to felonie . lib. Assis. 26. pl. 51. Coron. Fitzb. 196. Stawnf. pl. cor.li. 1. cap. 48. And the lawe of England is, that fo long as the principall is not attainted, the accessorie may not be dealt with, Stampf. wbi supra. The reason whereofyou may see, Cooke lib. 4. fol. 43. b. And this is also true by the ciuill lawe. Claudius de Battandier. in pract. crim. regula 101. at the least vntill the principall be certainely knowne. Of this subject reade M. Cromptons Iustice, fol. 37. b. 28.39.

Acceptance, is a receiving of a rent, whereby the receiver bindeth himselfe for ever to allow a former fact done by another, whether it be in it selfe good or not new tearmes of law.

Accompte (computus) is in the comon lawe taken for a writte or action brought against a man, that by meanes of office or businesse vndertaken, is to render an account vnto another; as a bailife toward his Master, a guardian in socage toward his ward, & such others, as you shall find particularly named by Fuzh. in his nat. br. fo. 116. where you may also

haue the forme and further vie of this writte. See ex parte talis.

Accroche. See enchrochemem. This word accroche is vied. ann. 25.Ed. 3. Stat. 3. ca. 8.

Achat.commeth of the french (achet. 1. emptio, nundinatio) and is vsed for a contract or bargain.

Broke.tit. contract.

Acquitall, signifieth in our comon law most ordinarily a deliuerance & setting free from the suspicion or guiltines of an offence: and is two sold: acquitall in law, or acquital in fact. Acquitall in law is , when two be appealed or endicted of selony, one as principall, the other as accessorie, the principall being discharged, the accessorie by consequent is also freed. And in this case as the accessorie is acquited by law, so is the principall in fact. Stamps. pl. cor. fo. 168.

Acquittance (Acquietantia) cometh from the french (quieter or quitter.i.acceptò ferre, or quietance.i.acceptitatio, apocha.) and fignificeth a release or discharge from a dept formerly due. But the verbe (acquite), the participle (acquited) & the nowne (acquital) fignificals a discharge or cleering from an offence objected, as: acquited by proclamation. Smith derep. Anglo. pa. 76. Stampf. pl. cor. fo. 168. Broke tit. Acquitall. See the new tearmes of lawe. verbo, acquitall & acquittance.

Acquie.

Acquietandis plegiis, is a Writ lying for a suretie against the creditour that resuseth to acquite him, after the debt is paid by the debtour, Register or sol. 158. where it appeareth that this is a Justicies.

Acre (acre) is a certaine quatitie of land containing in length 40. perches, and foure in breadth, or to that quantitie, be the length more or lesse. And if a man erect any new cotage, he must lay 4. acres of land to it after this meafure, anno 3 1. Eliza. cap. 7. and with this measure agreeth M. Crompton in his jurisdiction of Courts, fol. 222, though he fay alfo, that according to the divers customes of divers countries the perche differeth, being in some places, and most ordinarily, but 16. foot demid. But in the Counties of Stafford 24. foote, as was adjudged in the case betweene Sir Ed. Afton, and S. Iohn B. in the Exchequer. In the Statute made of fowing of Flaxe, ann. 24 H.8.cap.4. eight score perches make an acre, which is 40. multiplied by 4. See also the ordinance of measuring land, made anno 24. Ed. 1. Stat. I. which agreeth with this accompt. The word (acre) seemeth to come from the Germane word (acker) which is all one with the Latine (ager.)

Action (actio) is defined by

Bracton lib. 2. cap, t. as it is by Iustinian. li. 4. Instit. titulo.de actionibus, viz. Actio nibil alundect quam ius persequedi in iudicio quod alicui debetur. Action is principally divided by Instinian, in per-Conalem & realem: by Bracton, into personall, reall, and mixt: action personall is that, which belongeth to a man against another by reason of any contract, offence, or cause of like force to a contract or offence made or done by him or some other, for whose fact he is by law to anfwer, Brast. lib. 2.cap. 2.nu. 2. Action reall is defined to be that which is given to any man against another, that youn any cause possesseth or occupieth the thing required or fiewed for in his owne name, and none other mans: and in this onely respect, that he possesseth or occupieth the thing, and none other. Bract. ibid. nu. 3. and his reason is this: quia habet rem vel possidet, quam restituere potest vel dominum nominare. This definition & reason he farther exeplifieth in the words there following, which he that wil may reade at large. Action mixt is that, which lyeth afwell against or for the thing which we feeke, as against the person that hath it: and is called mixt, because it hath a mixt respect both to the thing & the person, Brat. lib. 3. cap. 3. nu. 5. For

example, the division of an inheritance betweene cohevres or copartners, called in the civill lawe (attio familia exciscunda:) fecondly, the duision of any particular thing being common to more, called likewise (actio de communi dividundo:) this kind of action (faith Bratton) doth feeme to be mixt, because it lyeth as well against the thing, as the perfon: and indeed fo do other excellent Civilians, as Cuiacius and Wesenbecius in their Paratitles. 7. finium regund. And though Instinian in his first division omitteth the third member: yet afterward in the same title, § . 20. he faith as these men do, viz that there be certaine actions (naming these and other of like nature) that seeme to haue a mixture, &c. Of this you may also reade Britton at large in his chapter 71. And this division of action springeth fro the object or matter, wherabout it confisteth, We senb. parat. w. de actio. & obliga. The author of the new tearmes of law defineth a mixt action to be a suite given by the lawe to recouer the thing. demaunded, and also the dammages for wrong done: s in Affife of nouel diffeyfin: the which writ, if the diffeifour make a feofment to another, the diffeifeur shall have remedie against the disseisour and the feoffer, or other land tenant, to recover not

onely the land, but the dammages alfo. See the rest. Thele words occasion me to shew, that actio is by the civill lawe called mixta in two respects: Nam quedam mifta funt guod in fe, & actionis in rem, & actionis personalis naturam habeant, & in iis, & actor & reus veerque fit, l. actionis verbo. 5. fina. a. de obliga er actio. Tales sunt actio familia ercifc. communi diuidun. & finium regun. quadam verò mista sunt quod remsimul & pænam persequantur, vt in actione vi bonorum rapt. legis Aquilia, & caqua datur contra eos qui legata vel fidei commissa sacrosantiis Ecclesiis relicta soluere distulerunt. And of this later fort is the example that the faid author bringeth of a mixt action.

Action, is also by the Civilians divided, of the efficient cause, in civilem & pratoriam. Whereof the one rifeth out of the common civil lawe, the other from forne edict of the Pretour. Who being cheife lusticer, had authoritie for his yeare, to supply the defects of the general law by his especial edicts. And a division not vnlike this may be made in the common law of England, one growing from the auncient customary law, the other from some statute . Broke. tit. Action sur le Statut.

Action of the final cause, is divided into civil, panal, & mixt.

31

Cooks

Cooke vol. 6. fo. 61. a. Action civile is that, which tendeth onely to the recouerie of that which by reason of any contract or other like cause is due vnto vs: as if a man by action seeke to recouer a fumme of money formerly lent, &c. Action penall is, that aimeth at some penaltie or punishment in the partie fued, be it corporall or pecuniarie. As in the action legis Aquilia in the civile lawe: whereby in our common lawe the next frends of a man feloniously slaine or wounded. shall persue the law against the murderer, or him that wounded him, to condigne punishment. Bract.li. 2. ca. 4. Action mixt is that, which feeketh both the thing whereof we are deprined, and a penaltie also for the vniust deteyning of the same : as in an action of tithe vpon the statute. anno. 2. & 2. Ed. 6.ca. 1 3.

Action is also, according to the forme of petion divided into such as are conceined to recouer either the simple value of the thing chalenged, or the double, the triple, or quadruple. Bract. li. 3.ca.3.ma.6. So doeth Decies tantum lie against embracers. Fitzh. nat.br. fo.171. and against iurours that take mony for their verdict of one part, or the other, or both. And to be short, any other action vpon a statute that punisheth any offence by restitu-

tion, or fine proportionable to

Action is preiudiciall (other-wise called preparatorie) or els principall: preiudiciall is that which groweth from some question or doubt in the principall: as if a man sue his younger brother for land descended from his father, and it be obiected vnto him that he is a bastard. Bratt. li. 3.ca.4. nu. 9. For this pointe of bastardie must be tried before the cause can farder proceede, & therefore is termed preiudicialis, quia prius indicanda.

Action is either awncestrell, or personall. Stampf. pl.cor. 59. Auncestrel seemeth to be that, which we have by some right descending from our auncester upon vs: and that personall, which hath the beginning in and from

our selues.

Action vpon the case (actio super casio) is a general action giuen for redresse of wrongs done without force against any man, and by lawe not especially provided for. For where you have any occasio of suite, that neither hath a sitte name, nor certaine forme alreadie prescribed: there the clerkes of the chauncerie in auncient time conceived a fitte forme of action for the fact in questio: which the Civilians call actionem in factum, & our common lawyers action vpon the

case.

case. In factum actiones dicuntur ideo, quia quod nomine non possunt exprimere negotium, id rei gesta enarratione declarant eitra formula ac solennitatem vlla: Cuiacius et Gothofredus ad Rubricam de prafcriptis verbis. And whereas in the civile lawe there are two forts (actionis in factum) one tearmed actioin factum ex prascriptis verbis. the other actio in factum pratorea. We semb. parat. de prasurip. verb. the former growing vpon words passed in contract, the other more genarally vpon any fact touching either contract or offence formerly not provided against, this action vpon the case feemeth in vie to bemore like to the pretours action in factum, then to the other: because in the perufall of the new booke of entries, and Brookes his abridgement heerevpon, I perceive that an action vpon the case lieth as well against offenses, as breach of contract. Of this see more in the word Tresbas.

Action vpon the statute (action super statuto) is an action brought against a man vpon breach of a statute: to be resembled in mine opinion to any action given in the lawe imperiall, either vpon edictum pratoris, plebiscitum, or senatus consultum. For as the Pretour, so the common people in comitis tributis, & the Senatours or nobility in curia vel senatu, had

power to make lawes, wherevpon the Pretour or other Iudges permitted action. And even so our high court of Parlament maketh Statutes against such offeces, as are either newly grown, or more and more increased: and our Iudges intertaine their plees, that commence actions against the breakers of them.

Action is perpetuall or temporall(perpetua vel temporalis) and that is called perpetuall, the force whereof is by no time determined. Of which fort were all ciuill actions among the auncient Romaines, viz. fuch as grew from lawes, decrees of the Senate, or constitutions of the Emperors: whereas actions granted by the Pretor, died withinithe yeare, de perpet. & tempor. altio. in Institut. So we have in England perpetuall and temporarie actions: and I thinke all may be called perpetuall, that are not expresly limited. As divers Statutes giue actions, so they be pursued within the time by them prescribed, namely, the Statute anno 1. Ed. 6. cap. 1. giueth action for 3. yeares after the offences therein shall be committed, and no longer: and the Statute anno 7.H.8. cap. 3. doth the like for foure yeares, and that anno 31. Eliz. cap. s. for one yeare & no more. But as by the civill lawe no actions were at the last so perpe-

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tual.

tual, but that by time they might be prescribed against as actiones in rem, decem aut vigintiterminantur annis, personales verò triginta. S. 1. de perpet. & temp. actio. in In-Bitutio & 1.3. Co. de prascript. 30. annorum: fo in our common law. though actions may be called perpetual in comparison of those that be expressely limited by satute: yet is there a means to prefcribe against reall actions within fine yeares, by a fine leuied, or a recouerie acknowledged, as you may fee farther in the word, Fine, and Recouerie. And for this also looke Limitation of assis.

Action is farther divided, in actionem bona fidei & stricti iuris. Which division hath good vse in our common lawe likewise, though the tearmes I find not in any of their writers. But of this, and such like divisions, because they have as yet no apparent acceptance amongst our Lawyers, but onely a hidden vse, I referre the reader to the Civilians, and namely to Wesenb. in his Paratitles. To be obligation & actio.

Addition (additio) is both the English and French word made of the Latine, and fignifieth in our common law a title given to a man over and above his Christian and surname, shewing his estate, degree, occupation, trade, age, place of dwelling, &c. For the vse wherof in original writs

of actions personale, appeales, and indictments, it is prouided by Statute anno 1. H. 5. cap. 5. vp6 the penaltie therein expressed. Tearmes of the lawe. Broke farder addeth, that it is likewise requisite in townes, and gates of townes; parishes in great townes and cities, where there may be any doubt, by reason of more townes, gates, or parishes of the same name, thalo Addition. See also M. Cromptons Iustice of peace, fol. 95.96.

Adeling was a word of honor among the Angles, properly apertaining to the Kings children, whereupon king Edward being himselfe without issue, and intending to make Eadgare (to whome he was great Vinkle by the mothers side) his heire to this kingdome, called him Adeling. Roger Houedine, parte poster. Suo-

rum Annal. fol. 347.a.

e Adjournment (adjurnamentum) is almost all one with the French (adjournement. i. denunciatio vel diei distio) and signifieth in our commo law an assignement of a day, or a putting off vntill another day, Adjournment in erre, (anno 25. Ed. 3. Statute of pourveyers, cap. 18.) is an appointment of a day, when the Justices in erre meane to sit againe. Adjourn. anno 2. Edw. 3. cap. 11. hath the like signification. And this, whole title in Broke his abridge-

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ment proueth the same. The bastard Latine word (addurnamentum) is vsed also among the Burgundians, as M. Skene noteth in
his booke De verbo signi. verbo,
Adiurnatus, out of Chassaneus de
consuet. Burg.

Adinquirendum, is a writ indiciall, commanding inquirie to be made of any thing touching a cause depending in the Kings court, for the better execution of instice, as of bastardie, of bondmen, and such like: whereof see great diversitie in the Table of the Register indiciall, verbo, Ad

inquirendum.

Admeasurement (admensuratio) is a writ, which lyeth for the bringing of those to a mediocritie, that vsurpe more then their part. And it lyeth in two cases: one is tearmed admeasurement of dower (admensuratio dotis) where the widow of the deceafed, holdeth from the heire or his guardian more in the name of her dower, then of right belongeth vnto her . Register orig. fol. 171. a. Fitzh. nat. br. fol. 148. The other is admeasurement of pasture (admensuratio pastura) which lieth betweene those, that haue common of pasture appendant to their free-hold, or common by vicenage, in case any one of them, or more, doe furcharge the common with more cattell then they ought,

Register.orig. fol. 156. b. Fitzb.

Administer (administrator) in our common law is properly taken for him, that hath the goods of a man dying intestate, committed to his charge by the ordinary, & is accountable for the fame, whenfoeuer it shall pleafe the ordinarie to call him thereunto. I finde not this word foe yled in all the civile or canon lawe, but more generally for those, that have the government of any thing, as the Decrees. can. 23.quest. 5.c. 26. Administratores plane sacularium dignitatum. &c. and extrava.com.ca. 11. Granoias autem, & alia loca Cisterciensium ordinis, & altorum Regalium, in quibios Gubernatores, seu custodes vel administratores conuntur, orc. Howfoeuer the fignification of this word grew to be restrained amongst vs, it greatly booteth not. But there was a statute made anno. 31. Ed. 3.ca. 11. whereby power was given to the ordinarie to appointe these administratours, and to authorize them as fully as executors, to gather vp, and to dispose the goods of the deceased: alway provided, that they should be accountable for the same, as executors. And before that, viz. Westm. 2. anno 13. Ed.1.ca.19. it was ordeined, that the goods of those that died intestate, should be committed to

the ordinarie his disposition, and that the ordinarie should be bound to answer his debts so far forth as the goods would exted, as executors. And I perswade my selfe that the committing of this burden vnto Bishops. & to those that deriue ecclesiasticall authoritie from them, grew first from the constitution of Leo the Emperour. Co.de Episco. & cleri. I. nulli licere. 28. Where it is faide, that if a man dying bequeath any thing to the redeeming captives, &c. and appoint one to execute his will in that point, the partie soe appointed shall see it performed: andif he appointe none to doe it, then the Bishop of the citie shall have power to demaund the legacie, and without all delay performe the will of the deceased.

Admirall (Admiralius) cometh of the frenche (amerall) and fignifieth, both in France and with vs, an high officer or magistrate that hath the gouernement of the Kings navie, and the hearing and determining of all causes, as well civile as criminall beloging to the sea. Cromptons divers inrifd. fo. 88. and the statutes anno 1 3. R. 2.ca.s.& anno.15. einschem.ca.3. & an. 2. H. 4.64. II. & anno. 2. H. 5.ca. 6. of an. 28. H. 8.ca. 15. with fuch like. This officer is in all kingdomes of Europe that border vpon the sea: and his autho-

ritie in the kingdome of Naples is called, magna Curia Admiraria que habet iurisdictionem in eos qui vivunt ex arte maris. Vincent de Franch. desciss 142 nu. 1. This Magistrate among the Romanes was called prafectus classis, as appeareth by Tully in Verrem. 7. but his authoritie was not continuall, as the Admirals is in these daies, but onely in time of warre. Neither doe I finde any fuch officer belonging to the Emperours in our Code. And M. Guyn in the preface to his reading, is of opinion that this office in England was not created vntill the daies of Edward the third: His reason is probable. Britton that wrote in Edw. the first time, and in the beginning of his booke taking vpon him to name all the courts of Justice, maketh no mention of this courte or magistrate. And againe Richard the second finding the Admirall to extend his juritdiction over farre, ordeined by statute made the 10. yeare of his reigne, that the limits of the admirals jurisdiction should be restrained to the power he had in his grandfather Edward thethirds daies, whereby the faide Master Gwin coniectureth that he did nought els but reduce him to his originall. But contrarily to this it appeareth by auncient records, the copies whereof I have seene, that not onely in the daies of

Edithe first, but also of King Iohn, all causes of Merchants and mariuers, and things happening within the sludde marke, were ever tried before the Lord admirall.

Adiura Regis, is a writ for the Kings Clerke against him that seeketh to ciect him to the pre-iudice of the Kings title in the right of his crowne. Of this you may see diuers formes upon divers cases. Register. orig. fo. 61. a.

Admittendo clerico, is a writte graunted to him that hath recouered his right of presentation against the Bishop in the common bank: the forme whereof read in Fuzh.nat.br.fo. 38.8 the Register.orig.fo. 33.a.

Admittendo in socium, is a writ for the association of certaine persons to sustices of assists formerly appointed, Register. orig.

fol. 206. a.

Ad quod damnum, is a writ that lyeth to the escheater to inquire what hurt it will be to the King, or other person, to graunt a Faire or market, or a mortmaine for any lands intended to be giuen in see simple to any house of religion, or other body politicke. For in that case, the land so giue is said to sal into a dead had, that is, such an estate and condition, that the chiefe Lords do leese all hope of heriots, service of court, and escheates upon any traite-

rous or felonious offence committed by the tenant. For a bodie politicke dieth not, neither can performe perfonall feruice, or commit treason or felonie, as a singular person may. And therefore it is reasonable, that before any such grant be made, it should be knowne, what prejudice it is like to worke to the graunter. Of this reade more in Fitzh. nat. bren. fol. 221. and look Mortmaine.

Adterminum qui prateriit, is a writ of entrie, that lyeth in case where a man having leased lands or tenements for terme of life or yeers, and after the terme expired, is held from them by the tenant, or other stranger that occupieth the same, and deforces the leassour. Which writ belongeth to the leassour and his heire also, Fitzh.nat.br. fol. 201.

Aduent (aduentus) is a certaine space of time comprising a moneth or thereabout, next before the seast of Christs nativitie. Wherein it seemeth that our ancestors reposed a kind of reverence for the necrencise of that solemne seast: so that all contentions in lawe were then remitted for a season. Whereupon there was a statute ordained Westm. Leap. 48. anno 3. Ed. 1. that not withstanding the said vsuals solutions in th

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iustice and charitie, which ought at all times to be regarded) to rake affises of nouell differsin, mort d'auncester, and darrein pre-Centment, in the time of Aduent, Septuagefima, and Lent. This is also one of the times, from the beginning whereof vnto the end of the Octaves of the Epiphany, the folemnizing of mariage is forbidden, by reason of a certain spiritual joy that the church, & so consequently enery member thereof, for that time, doth or ought to conceive in the remembrance of her spouse Christ Icsus, and so abandon all affections of the flesh. See Rogation weeke, and Septuagefima.

Advocatione decimarum, is a writthat lyeth for the claime of the fourth partor vpward, of the tythes that belong to any Church, Reguler orig. fol. 29. b.

Advow, alias avone (advocare) commeth of the French (advoicer, alias avoicer, and fignifieth as much as to inflifie or maintaine an act formerly done. For example, one taketh a distresse for rent or other thing, and he that is destreyned, such a Replevin. Now he that tooke the distresse, or to whose vie the distresse was taken by another, sustifying or maintaining the act, is said to avowe. Tearmes of the lawe. Hereof commeth advowant, Old.nat. br. fol. 43. and advowrie, eodem folio.

Bratton vieth the Latine word in the same signification, as (advocation dissertion) 1.4. cap. 26. And I find in Cassaure de consuet. Burg. pa. 1210. (advobare) in the same signification, and pag. 1213. the Substantine (desavohamentum) for a disavowing or refusal to ayowe.

Advowzen (advocatio) fignifieth in our common law a right to present to a benefice, as much as (ws patronatus) in the canon lawe. The reason why it is so tearmed, proceedeth from this. because they that originally obtained the right of presenting to any Church, were maintainers and vpholders, or great benefactors to that Church, either by building or increasing it; and are thereupon tearmed sometime patroni, sometime Advocati, cap. 4. & cap. 23. de iure patronatus in Decretal. And advonzen being a bastardly French word is vsed for the right of presenting, as appeareth by the Statute of Weffm. the fecond anno 13.Ed. 1.ca.s.

Advowsen is of two sorts: advowsen in grosse, that is, sole or principall, not adhering or belonging to any maner as parcell of the right thereof: advonzen dependant, which dependent vpon a maner as appertinent vnto it, tearmed of Kitchin an incident, that may be separated from the subject. Of this M. John Skeene

de verbo. sig. hath these wordes: dicitur advocatio Eeclesia, vel quia patronus alicuius Ecclesia ratione sus iuris advocat se ad eandem Ecclesiam, & asserts se in eadem habere sus patronatus, eamque esse sui quasi clientis loco, vel potsus cum aliquis (nempe patronus) advocat alium sure suo ad Ecclesiam vacante, eumque loco alterius (veluti defunti) prasentat & quasi exhibet. Sce Advorè next following:

Advome, alias avome (advocatus) is ysed for him that hath right to present to a benefice, an. 25 Ed. 3. stat. 5. ca. vnico. There have you also (Advome paramount) which is as much as the highest patron, and is spoken of the King. Advocatus est adquem pertinetius advocationis alicuius ecclesia, vt adecclesiam, nomine proprio non alieno, possit prasentare. Fleta li. 5. ca. 14. §. i. Fitzh. in his nat. br. fo. 39. yseth it in the same signification. See Advomsen. and Avome.

Atate probanda, is a writ that the Kings tenent holding in chiefe by chivalrie, and being warde by reason of his nonage, obteineth to the eschetour of the countie where he was borne, or some time, where the land lyeth, to enquire, whether he be of full age to have deliverie of his lands into his owe hand. Register orig. fo. 294. 6: 295. Fitzh.nat.br. fo. 253. Who also fo. 257. saith that this writ is some time dire-

And to the Shireife to empanell aimie for this enquirie against a day certaine, before commissioners authorized under the broad scale to deale in such a cause.

Aërie of Goshawkes (aëria accipitum) commeth from the french (aïère) signissing so much as (par) in latine or (a paire) in English For the french man saying that one is (vn houme de boun aiere) signissieth that he commeth of a good paire, that is, a good sather and a good mother. It is in our language the proper word in hawkes, for that which we generally call a nest in other birds. So is it vsed anno 9.H.3.ea.13. in the charter of the forest, and in divers

other places.

Affecrours (afferatores, alias affidate) may probably be thought to proceede from the french (affier.i.confirmare, affirmare)It signifieth in our common lawe, those that be appointed in court leetes, &c. vpon oath to mulct fuch as have committed faults arbitrablely punishable,& haue no expresse penaltie set downe by statute. The formcof their oathe you may fee in Kitchin.fo.46. The reason of this appellation maysceme to be,because they that be appointed to this office, do affirme ypon there oathes, what penaltie they think in conscience the offendour hath deserued. It may likewise proba-

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bly be thought, that this commeth from (feere) an olde english word fignifying a companion, as (gefera) doeth among the Saxons by M. Lamberds testimonic, verbo (contubernalis) in his explication of Saxon words. And foit may be gathered that M. Kitchin taketh it. ed. Amercements. fo.78.in these words. (Mas sile amercement soit affire per pares) where pares) be put for affectors. And there may be good reason of this, because they are in this bufines made companions and equals. You shall finde this word vied.an. 25. Ed. 3. fta. 7. viz. And the same Iustices before their rifing in every fessions, shall cause to be affected the amercements. as pertaineth, & also to the same effect.an. 26. H.S.ca. 6. Kitchin.fo. 78.ioyneth these. 3. wordes togither as synonyma. (Affidati, amerciatores, affirours. Affidare in the canon lawe is yled for fidem dare. ca.fina.de cognatio. spritua.in Decretal. & ca. super co. de testibus. Bracton hath affidare molierem, for to be betrothed to a woman. li. 2 CA. 12. But I finde in the cuftomarie of Normandie.ca. 20. this word (affewrer) which the latine interpretour expresseth by (taxare) that is, to fet the price of a thing, as (astimare, maicare, etc.) which etymologic of all the other pleafeth me best, leaving euery man to his own judgemet. Affirme (affirmare) commeth either of the latine, or frenche (affirmer) Itsignisieth in our common law, as much as to ratisfe or approue a former law or iudgement. So is the substantiue (assiminate) vsed anno. 8. H. 6. ca. 12. And so is the verb it selfe by M. West. parte. 2. Symbolai. taulo, Fines. selt. 152. And if the iudgement be affirmed, &c. as also by M. Crompton in his divers Iurist. so. 166.

Afforest (afforestare) is to turne ground into forest.charta de foresta.ca.1.6 30. an.9. H.3. What that is, look more at larg in Forest.

Affraye (affreia) commeth of the french (effraier. i. borrificare, terrere) le signifieth in our common lawe a skirmish or fighting betweenetwo or more. M. Lamberd in his eirenarcha. lib. 2. cap. 3. faith, that it is often times confounded with an affault, but yet he is of opinion that they differ in this, that where an affault is but a wrong to the partie, an affray is a common wrong: and therefore both enquirable and punishable in a leete. It might be faid likewise, that an affault is but of one side, and an affray of two or more. I thinke this word (affray) to be two wayes vied, one, as I haue alreadie described it, another, for a terror wrought in the subjects by any vnlawfull fight of violence, or armor, &co tending toward violen e. For fo

is it vsed, anno 2. Ed. 3. cap. 3.

Age (atas) commeth from the French (aage) and fignifieth in our language that part of a mans life, which is from his birth vnto his last day. But it is in the common lawe particularly vied for those especiall times, which enable men or women to do that, which before for want of age, and fo consequently of judgement, they might not do. And these times in a man be two, in a woman fixe. The age of 21. yeres is termed the full age in a man, the age of fourteene yeares, the age of discretion, Litleton li. 2.ca. 4. In a woman there are fixe feuerall ages obserued, that seuerally enable her to do fixe feuerall things. Broke. Gard. 7. First, at 7. yeares of age the Lord her father may distraine his tenents for ayde to marry her: for at those yeares the may confent to matrimonie, Bract. lib. 2. cap. 36.nn. 3. Secondly, at the age of nine yeares she is dowable: for then, or within halfe a yeare after, is The able promereri dotem, or virum sustinere. Fleta li. 5. cap. 22. Litleton lib. prim. cap. 5. which Bra-Eten loco citato doth notwithfanding limit at 12. yeares. Thirdly, at twelve yeares she is able finally to ratifie and confirme her former confent given to matrimonie. Fourthly, at 14. yeares The is enabled to receive her land

into her owne hands, and shall be out of ward, if she be of this age at the death of her ancestor. Fiftly, at fixteene yeares the shall be out of ward, though at the death of her auncestor she was within the age of fourteen veres. The reason is, because then she may take a husband abie to performe Knights service. Sixtly, at 21. yeares she is able to alienate her lands and tenements, Instit. inre com. cap. 24. Touching this mater, take further these notes perspicuously gathered. At the age of 14. yeares a friplin is enabled to chuse his owne guardian, and to claime his land holden in socage, Dyer fol. 162. which Bracton limiteth at fifteene yeares, li. 2.cap. 37. num. 2. with whom Glanvile also agreeth, lib. 7. cap. 9. And at the age of fourteene yeares, a man may confent to mariage, as a woman at 12. Bracton. vbi supra. At the age of fifteene yeresa man ought to be fworne to keepe the kings peace, anno 34. Edw. 1. Stat. 3. The age of 21. yeares compelleth a man to be knight, that hath twentie pounds land per annum in fee, or for tearme of life, anno 1. Edw. 2. flat. 1. and also enableth hun to contract and to deale by himself, in all lawfull causes appertaining vnto his estate. Which vntill that time he cannot with the fecurity of those that deale with him. This

This the Lombords settle at 18. yeares, as appeareth by Hotomans disputations on libros fendorum, 1.2. c. 5 3. ver. decimo. octano anno. which power the Romans permitted not vique ad plenam maturitatem, and that they limited at 25. yeares. lib. 1.in fine a. de major. 25. an. l. fin. Co. de Legit. tut. in principio, titulo de curat. in Institut. The age of twelve yeares bindeth to appearance before the Sheriffe and Coroner for enquirie after roberies, an. 52. H. 3. cap. 24. The age of 14. yeares, enableth to enter an order of religion without consent of parents, &c. anno 4. H. 4. cap. 17.

Age prier (atatem precari) or (atatis precatio) is a petition made in count by one in his minoritie, having an actio brought against him, for lands coming to him by discent, that the action may rest vntill he come to his full age: which the Court in most cases ought to yeeld vnto. This is otherwise in the civill lawe, which inforceth children in their minoritie to answer by their tutors or curatours, n. de minor. 25. cm.

Agenhine. See Haghenhine.

Agist (agistare) seemeth to come of the French (gist.1.iacet) having (gist) in the Infinitive moode, whence commeth the nowne (gistere) a lying in child-bed: or rather of (gistere i. stabulari) a word proper to a Deare,

cum sub mensem Maium è losis abditis in anibus delstuit emigrans, in loco delecto stabulari incipit, unde commoda & propingua sit pabulatio. Budans in posteriori libro philologia. Where also he faith, that (gifte) est idem quod lustrum vel cubile. Or it may be probably deduced from the Saxon word (Gaft. 1. hofes.) It fignifieth in our common lawe, to take in and feede the catell of firaungers in the kings forest, and to gather the money due for the fame to the kings vse, Charta de Foresta, an .9. H. 3. cap. 9. The Officers that do this, are called (agiftors) in English, Guest-takers, eodem.cap. 8. Cromptons iuri [dec. fol. 146. Thele are made by the kings leters patents under the great seale of England: of whom the King hath foure in number within enery forest, where he hath any pawnage, called agifters, or Gift-takers. And their office confifteth in these foure points: (in agistando, recipiendo, imbreviando, certificando) Manwood parte trima. Of Forest lawes, p. 336. & 337. whome you may reade more at large. Their function is tearmed Agistment, as agistment vpon the sea banks, anno 6. H.6.cap. 5. Agreement (agreamentum 1.ag.

Agreement (agreementum) aggregatio mentium) is the affent or cocord of more to one thing: & this by the author of the new tearines of lawe, is either execu-

ted

ted or executory: which you may read more at large in him exem-

pified by cases.

Ayde (auxilium) is all one in fignification with the French (ande) and differeth in nothing, but the onely pronunacitio, if we take it as it is yied in our vulgar language. But in the common lawe, it is applied to divers particular fignifications, as sometime to a subsidie anno. 14. Ed. 2. flat. 2.ca. I fometime to a prestation due from tenents to their Lords. as toward the releife due to the Lord Paramount, Glanvile la. 9. cap. 8. or for the making of his fonne knight, or the marving of his daughter, idem, eodem. This the King, or other Lord by the auncient lawe of England, might lay vpon their tenents, for the knighting of his eldest sonne at the age of 15. yeares, or the mariage of his daughter at the age of leuen yeares, Regist. orig. fol. 87. a. and that at what rate them selves listed. But the Statute, Westmin. I. anno 3. Edw. I. ordained a restraint for to large ademand, made by common persons being Lords, in this case, and tyed them to a certainerate. And the Statute made anno 25. Ed. 3. Stat. 5. cap. 11. prouideth, that the rate set downe by the former Statute, should hold in the King, as well as in other Lords. Of this I find mention in the Statute, an.

27. H.S. ca. 10. This imposition feemeth to have descended to vs from Normandie: for in the grand custumarie, cap. 35. you haue a Tractate intituled (des aides chevelz. 1. de auxilys capitalibus) whereof the first is (a faire l'ayne filz de son seigneur chevalier. i. ad filium primogenitum militem faciendum) the second, (son aimee fille marier. i. ad filiam primogenitam maritandam.) And the third. (a rechapter le corps de son seigneur de prison quand il est prius per la guerre an Duc. i. ad corpus domsnisui de prisona redimendum cum captus fuerit pro bello Ducis Normandie. Also I find in Cassanaus de cosuet. Burg. Quod dominus accipit à subditis pro dotanda filia, pa. 122. which feemeth to be all one with this our imposition: and also in Vincentius de Franchis def caf. 121. where he calleth it adiutorium pro maritanda filia. Whence it appeareth, that this custome is within the kingdome of Naples also. Touching this likewise, you may reade these words in Manochius, lib. 2. de arbitrat. Iud. quast. centuria. 2. cap. 181. Habent sepissime feudorum possessores & Domini multa in eorum ditionibus privilegia, multafá, cum locorum incolis connentiones: inter quas,illa una solet nominari, ut possit Dominus collectam illis indicere, pro solutione dotium suarum filiarum, cum matrimonio collocantur. Hock

Hos aliquando Roma observatum à Caligula fuiffe, in illius vita scribit Suctorius cap. 4.2. Hodie hic vsus in subalpina regione est frequens, vt Cribit Iacobinus de Sancto Georgio. in tractu de homao iis. col. 8. Etiam pro filia que religionem ingreditur. & non modo pro una filia, sed pluribus filiabus, non tamen pro secundis nuptijs exigitur. In which place, the faid author maketh mention of divers other Civilians and feudiffs, that record this custome to be in other places. Of this aide, our Fleta writeth thus:sicut etiam quedam consuetudines que servitia non dicuntur, nec concomitantia (eruitioru, ficut rationobilia auxilia ad tilium primogenitum militem faciendum, vel ad filiam primogenita maritandam: que quidem auxilia sunt de gratia & non de iure, pro necessitate & indigentia dominicapitalis. Et non sunt predialia sed personalia, secundum quod perpendi poterit in breui ad hoc proviso, oc.

This word (ayde) is also particularly vsed in matter of pleading, for a petition made in court for the calling in of helpe from another, that hath an interest in the cause in question, and is likely both to give strength to the party that prayeth in aide of him, and also to avoide a prejudice growing toward his owne right, except it be prevented. For example: when a tenent for terme of life, by courtese, tenent in

taile after possibility of issue extinct, for tearme of yeares, at will, by elegit, or tenent by statute merchant being impleaded touching his estate, may petere auxilium, that is, pray in ayde of him in the reversion (that is) defire or intreate the court, that he may be called in by writ, to alledge what he thinketh good for the maintenance both of his right, and his owne. Termes of the lawe. Fitzb. mentioneth both (prier en ayde) and (prier ayde de patron, &c.) auxilium petere a patrono, nat. br. fol. so. d. and the new booke of entries, verbo, Ayde de parcener, auxilium de parcionario, fol. 411. columna 4. This the later practitioners in the civill lawe, call authoris laudatione m vel nominationem. Emericus in pract. titulo.48. This ande prier, is also vfed fometime in the kings behoofe, that there be no proceeding against him, vntill the kings Councell be called, and heard to fay what they thinke good, for the auoyding of the kings preiudice or losse, touching the cause in hand. For example: if the kings tenent holding in chiefe, be demaunded a rent of a common person, he may pray in ayde of the king. Also a citie or borough that hath a feeferme of the king, any thing being demaunded a gainst them which belongeth thereunto, may pray in ayde of

the King,&c.Tearms of the law. of this thing you may read the statute (de big amis.a.4.Ed.1.ea.1.2.6 3.6 anno.14.Ed.2.stat.1.ca.14. The civile law in suites begunne betweene two, alloweth a third to come in (prointeresse) and he that commeth in for his interress, commeth either assistance or opponendo, &c.Theformer is like to this (ayde prier) the other to that which our common lawyers call Receyte. Looke Receyte.

Aile (avo) commeth of the French (aienl. i. avus) & fignifieth a writ that lieth, where the gradfather or great grandfather called of our common lawyers (befayle) but in true French (bifaient) was feifed in his demaines as of fee, of any land or tenement in fee fimple, the day that he died, and a stranger abateth or entreth the same day, and disposses the heire. Fitzb. nat. br. fo. 221.

Alderman (aldermannus) is borrowed from the faxon (Ealderman) fignifying as much as Senator in latine. Lamb. in his explica of Saxon words. verbo fenator. See Roger Hoveden parte poster. (uorum.annal. so 246.b.

Aler fans. jour, is verbatim, to goe without day: the meaning wherof is, to be finally difinissed the courte: because there is no day of farder appearace assigned, Kitchin. fo. 140.

Ale-taftor, is an officer ap-

pointed in every court leete, and fworne to looke to the affife, and the goodnes of bread and ale or beere, within the precincts of that Lordship. Kitchin. fo. 46. where you may see the forme of his oath.

Alias v. Capias alias.

Alien (alienare) commeth of the French (aliener) and signification as much as to transferre the propertie of any thing vnto another man. To alien in mortmaine, is to make over lands or tenements to a religious companie, or other body politike. Stawaf. praro. fo. 48. looke Mortmayn. To alien in fee, is to fel the fee simple of any land or tenement, or of any incorporeall right, West. 2.ca. 25. anno. 13. Ed. 1.

Alien alias alion (alienigena) commeth of the latine (alienns) and fignifieth one borne in a straunge country. It is ordinarily taken for the contrarie to (Denizen) or a naturall subject, that is, one borne in a straunge country, and never heere infranchifed. Broke. Denizen. 4. &c. And in this case, a man born out of the land, fo it be within the limits of the Kings obedience, beyond the sease, or of English parents, our of the Kings obedience (fo the parents at the time of the birth, be of the Kings allegiance) is no alien in account, but a subject to the King Statute. 2.a. 25. Ed. 3. ca.

vnico.

viico. commonly called the Statute, De natio vitra mare. Also if one borne out of the kings allegiance, come and dwell in England, his children (if he beget any heere) be not aliens, but denizens. Termes of the lawe. See Denizen.

Allaye (Allasa) is vsed for the temper and mixture of silver and gold, anno 9. H. 5. Stat. 2. cap. 4. & Stat. 1. einsidem anni, cap. 11. The reason of which allay is, with a baser mettall to augment the waight of the silver or gold so much, as may countervaile the Princes charge in the coining. Antonius Faber. de nummariorum debitorum solutionibus, cap. 1.

Allocatione facienda, is a writ directed to the Lord Treasurer, and Barons of the Exchequer, vpó complaint of some accountant, commaunding them to allow the accountant such sums, as he hath by vertue of his office lawfully and reasonably expended, Register. orig. fol. 206.b.

Alluminor, seemeth to be made of the French (allumer, i.accendere, incendere, inflammare) it is vesed for one that by his trade coloureth or painteth vpon paper or parchment. And the reason is, because he giveth grace, light, and ornament by his colours, to the leters or other figures coloured. You shall find the word, an. I.R.3.5a.9.

Almaine rivets, be a certaine light kind of armor for the body of a man, with sleeves of maile, or plates of iron, for the defence of his armes. The former of which words, seemeth to shewe the countrie where it was first invented: the other, whether it may come from the French verb (revestir, 1. superinduere) to put on upon another garment, I leave to farther consideration.

Almner (eleemosinarius) is an officer of the kings house, whose function is, fragmenta diligenter colligere, & ea distribuere singulis diebus egenis: egrotos & leprofos, in carceratos, paupere (quiduas, o alios egenos vagolo, in patria commorantes, charitative visitare: item equos relictos, robas, pecuniam, & alia ad eleemosynam largita, recipere & fideliter distribuere. Debet etiam regem super eleemosyna largitione crebris summonitionibus stimulare, & pracipue diebus Sanctorum, & rogare ne robas suas qua magni sunt pretii, histrionibus, blanditoribus, adulatoribus, accusatoribus vel menestrallis, sed ad eleemosina sue incrementum subeat largiri, Fleta. lib. 2.cap. 22.

Almoine (eleemosina.) Sce

Frank almoyne.

Almond (amygdalum) is well knowne to every mans fight: it is the kirnell of a nut or stone, which the tree in Latine called (amygdalus) doth beare with-

within a huske in maner of a wal nut, of whose nature, and diuersities you may reade Gerards Herball, lib. 3. cap. 87. This is noted among merchandize that are to be garbled, anno 1. Iaco.ca. 19.

Alnegeor, alias, aulnegeor (vlniger vel vlnator) cometh from the French (aulne) an elle, or elwand, and fignifieth an officer of the Kings, who by himselfe or his deputie, in places conuenient, looketh to the affile of wollen cloth made through the land, and to scals for that purpose ordained vnto them, an. 25. Ed. 3. Stat. 4. cap. 1. anno 3. R. 2. cap. 2. who is accomptable to the king for every cloth fo fealed in a fee or custome therunto belonging, anno 17.R. 2. cap. 2. Reade of this more, anno 27. Ed. 3 cap. 4. anno 17. R. 2. cap. 2. 6 5. anno 1. H.4. cap. 13. anno 7. emfdem.cap. 10.anno 11 einsch. cap. 6. anno 1 2 einfd. cap. 4. anno 11. H. 6. cap. 9. anno 31. siu (dem. cap. 4. anno 4. Ed. 4.ca. 1. anno 8.ein fdem, cap. 1. & an. 1. R. 3. cap. 8.

Ambidexter is that iurour or embraceour, that taketh of both parties for the giving of his verdict. He forfeiteth ten times so much as he taketh, anno 38. Ed. 3. cap. 12. Cromptons iustice of

peace, fol. 156.b.

Amendment (emendatio) co:nmeth of the French (amendement) and fignifieth in our common lawe, a correction of an error committed in a processe, and espyed before judgment. Terms of the lawe. Broke, titulo Amendement per totum. But if the fault be found after judgment given: then is the party that wil redresse it, driven to his writ of errour. Tearmes of the lawe, Broke titulo Error.

Amerciament (amerciamentum) fignifieth the pecuniarie punishment of an offendor against the King or other Lord in his court, that is found to be (in misericordia)i. to haue offended, and to stand at the mercie of the King or Lord. There feemeth to be a difference betweene amerciaments and fines, Kitchin fol. 214. And I have heard comon Lawyers fay, that fines, as they are taken for punishments, be punishments certaine, which grow expresly from some statute, and that amerciaments be fuch, as be arbitrably imposed by affectors. This is in some fort confirmed by Kitchin fol. 78. in these words: (l'amerciamet est affire per pares.) M. Manwood in his first part of Forest lawes. pag. 166. seemeth to make another difference, as if he would inferre an amerciamet to be a more casie, or more mercifull penaltie, and a fine more sharpe and grieuous. Take his wordes: If the pledges for fuch a trespasse (faith he) do appeare

by common fummons, bur not the defendant himselfe: then the pledges shall be imprisoned, for that default of the defendant: but otherwise it is, if the defendant himselfe do appeare, and be ready in Court beforethe Lord Iustice in eyre, to receive his judgment, and to pay his fine. But if fuch pledges do make default, in that case the pledges shall be amerced, but not fined, &c. The author of the new tearmes of lawe, faith, that amerciament is most properly a penalty assessed, by the peeres or equals of the partie amercied for an offence done, for the which he putteth himselfe vpon the mercie of the Lord. Who also maketh mentio of an amerciament royal, and defineth it to be a pecuniarie punishment laid vpon a Sheriffe, Coroner, or such like Officer of the kings, amercied by Inflices for his offence. See Misericordia.

Amoveas manum. Looke ouster le maine.

An, sour, & waste (annus, dies, & vastum.) Looke yeare, day, and waste.

Ancaling of tile, anno. 17. Ed.

Annars, (Annares) seemeth to be all one with first fruites. anno. 25. H.8.ca. 20. looke, First fruites. The reason is, because the rate of first fruites payed of spirituals liuings, is after one yeares profite.

Of which Polydore Virgil, de inuetione rerum, lib. 8.cap. 2. faith thus: Nullum inventummaiores Romano Pontifici cumulavit opes, quam annature (quas vocant) vsus, qui omnino multo antiquior est, quim recetiores quidam scriptores suspicantur. Et annates more sus appellant primos fructus unius anni sacerdoiii vacantis aut danidiam corum partem. Sane boc vectigal sam pridem, cum Romanus Pontifex non habnerit tot possessiones quot nunc habet. & eum oportuerit pro dignitate, pro of. ficio, multos magnosque facere sumptus, paulatim impositum fuit sacerdotiis vacantibus quaille conferret: de qua quidem re ut gravi, sape reclamatum fuisse testatur Henricus Hostiensis, qui cum Alexandro 4. Pontifice vixit, sic vt Franciscus Zabarellus tradat posthac in concilio Viennensi, quod Clemens quintus indixit (qui factus est Pontifex anno (alutis humane, 135.) agitatum fuise, vt, eo deposito, annatum onere vigesima pars vectigalum sacerdotalium penderetur quotannis Romano Pontifici, & id quidem frustra. Quare Pontifex annatas in sua nas. sa retinuit, ve ne indidem exire possent: lege catera.

Anniented, commeth of the French (aneantir. i. se abiicere, atque prosternere) It signifieth with ourlawyers, as much as frustrated or brought to nothing, Litleton. lib. 3. cap. warrantie.

Annua pensione, is a writte, whereby

wherby the king having due vnto him an annual pension from any Abbot or Prior for any of his Chaplaines, whom he shal think good to name vnto him, being as yet unprouided of sufficient liuing, doth demaund the fame of the faid Abbot or Prior for one. whose name is comprised in the same writ, vntill, &c. and also willeth him, for his Chaplaines better affurance, to give him his leters patents for the same. Revister orig. fol. 265. & 307. & Fitzb. nat.br. fol. 231. where you may see the names of al the Abbeyes and Priories bound vnto this, in respect of their foundatio or creation; as also the forme of the leters patents viually graunted vpon this writ.

Annuitie (annuus reditus) signifieth a yearely rent to be paide for tearme of life or veres, or in fee, and is also vsed, for the writ that lyeth against a man for the recouerie of such a rent, either out of his land, or out of his cofers, or to be received of his person, at a day certaine euery yere, not latisfying it according to the graunt. Register. orig. fol. 158. Fitz nat. br. fol. 152. The author of the new tearmes of law defineth (annuitie) to be a certaine fumme of money graunted to another in fee simple, fee taile, for tearme of life, or of yeares, to receive of the graunter, or his

heires, fo that no Free-hold be charged therewith, whereof a man shall never have affise or other action, but a writ of annuitie. Saintgerman in his booke intituled (The Doctor and Student) dialogo primo, cap. 2. Theweth diuers differences betweene a rent and an annuitic, whereof the first is, that enery rent, be it rent feruice, rent charge, or rent feck, is going out of land: but an annuity goeth not out of any land, but chargeth onely the person: that is to fay, the graunter, or his heires that have affets by defcent, or the house, if it be granted by a house of religion, to perceiue of their coffers. The second difference is, that for the reconerie of an annuity, no action lyeth, but onely the writ of annuitic against the graunter, his heires, or successors: but of a rent, the same actions lye as do of land, as the case requireth. The third difference is, that an annuitie is never taken for affets, because it is no Free-hold in lawe, neither shall be put in execution vpon a statute Merchant, flatute Staple, or elegit, as a rent may. Dyer fol. 345. num. 2. speaketh also to this effect:

Annife seede (semen Anisi) is a medicinal seed not vnknowne, so called of the hearbe anisum, whereof it is the fruite. Of this he that listeth may reade Ge-

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rads herball.li. 2.ca. 397. It is noted among the garbleable drugs and spices. anno. 1. Iaco. ca. 19.

Anoisance alias Noisance, alias Nusance (nocumentum) commeth of the French (nuisance. i incommodum, noxa) and hath a double fignification, being vied as well for any hurt done either to a publike place, as(high way, bridge, or common river) or to 2 private, by laying any thing, that may breede infection, by incroaching, or fuch like means: as alfo, for the writ that is brought vpon this transgression: whereof see more in Nusance. The word (anoy (ance) I finde, anno 22. H. 8. ca.s.

Apostata capiendo, is a writthat lyeth against one, that having entred and professed some order of religon, breaketh out againe, and wandereth the country, contrarily to the rules of his order . For the Abbot or Prior of the house, certifying this into the chawncerie, vnder their common seale, and praying this writ directed to the Shyreeue for the apprehensio of such offendour, and for the delivery of him again to his Abbot or Prior, or their lawful atturney, were wont to obtaine the fame. The forme whereof, with other circumstances, you shall finde in the Register. orig.fo.71. & 267. and Fitzh. nat. br. fo. 233. C.

Appare'ment, commeth of the French (pareilement. i. similiter, perinde, ntidem) and signifieth a resemblance: as apparelment of warre.amno 2.R.2. stat. I. ca.6.

Appeale (appellum) commeth of the French (appeller.i.accire, accersere nominare evocare, clamore aliquem flagitare) It honifieth in our common lawe, as much as (accusatio) with the civilians. For as in the civile lawe, cognisance of criminal causes, is taken either vpon inquisition, denunciation, or acculation: so in ours, ypon indictment or appeale, indictment comprehending both inquifition and denunciation. And accusation or apeale, is a lawfull declaration of another mans crime (which by Bracton must be felonie at the least in the common lawe)before a competent ludge, by one that fetteth his name to the declaration, and vndertaketh to prooue it, vpon the penaltie that may enfue of the contrary. To declare the whole course of an appeale, weare to much for this treatife. Wherefore for that, I must referre you to Bracton.li.3. tract. 2.ca. 18.cum sequent. Britton. ca.22.23.24.25. and to S. Thomas Smith.li.z.de repub. Anglo.ca. 3. and lastly to Stammf. pl. cor.li. 2. ca.6.7.6 c.vfq; 17. An appeale is commenced two waies : either by writte, or by bill. Stannf. vbi Supra fo. 46. And it may be gathe-

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red by him. to. 148. that an appeale by writ is, when a writ is purchased out of the chauncerie by one to another to this ende, that he appeale a third of some felonie committed by him, finding pledges that he shall doe it, and deliuer this writ to the Shyreeue to be recorded. Appeale by billis, when a man of himselfe giueth vp his accusation in writing to the Vicount or Coroner, offering to vndergoe the burden of appealing another therein named. This pointe of our lawe,among others, is drawne from the Normans, as appeareth plainly by the grand custumarie. ca. 68. where there is set downe a solemne discourse of both the effects of this appeale. viz. the order of the cobate, & of the trvall by enquest: of which by the common lawe of England, it is in the joyce of the defendant. whether to take. See the newe booke of entrife. verbo Appel. & the booke of Affises. fo. 78. Appel.

Appeale of mahem (appellum mahemy) is an accusing of one that hath may med another. But that being no selony, the appeale thereof is but in a fort, an action of trespase because there is noe thing recovered but dammages. Bratton calleth this (appellum de plagis & mahemio) and writeth of it a whole chapter. li. 3. trast. 2.ca. 24. See S.Ed. Cook. 4. vol fo. 43.a

Appeale of wrong imprisonment (appellum de pace & imprisonamento) is vsed by Bratton, for an action of wrong imprisonment, whereof he writteth a whole trattat. 2. trattat. 2. ca. 25.

Appeale (appellatio) is vsed in our common law divers times, as it is taken in the civile lawe: which is a removing of a cause from an inferiour judge to a superiour. as appeale to Rome. an. 24.H.8.ca.12.6 an.1. Eliz. ca.1. But it is more comonly vsed, for the private accusation, of a murderer by a party, who had interest in the partie murdered or of any selon by one of his complices in the sact. See Approver.

Appendant (appendens) is any thing belonging to another, as accessorium principali, with the Civilians, or ad untium subjects, with the logicians. An hospital may be appendant to a Maner. Fuzh. nat.br.fo.142. Common of fishing appendant to a free hold. Westm.

2.ca.25.anno.13.Ed.1.

Appertinances (pertinentia) commeth of the French (appartenir.i. pertinere) It fignifieth in our common lawe, things both corporal, belonging to another thing, as to the more principal: as hamlets to a chiefe Maner, common of passure, turbarie, piscarie, and such like; and incorporeal, as liberties and services of tenents. Brit.ca.39. where I note by the

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way, that he accounteth common of pasture, turbarie, and piscary, to be things corporal looke Common.

Apporcionment (Apportionamentu) is a dividing of a rent into parts, according as the land, whence the whole rent iffueth, is divided among two or more. See the new termes of lawe.

Apprentice (Apprenticius) commeth of the French aprenti.i.tyro & rudis descipulus) or of the verb (apprendre.i. addiscere, discere) and fignifieth with vs, one that is bound by couenant in word or writing, to serue another man of trade for certaine yeares, vpon condition, that the artificer or man of trade, shall in the meane time endeavour to instruct him in his art or misterie. S. Thomas Smith, in his booke de rep. Ang. Is. 3.ca. 8. faith, that they are a kinde of bond men, differing onely, in that they be servants by couenant and for a time. Of these you may reade divers statutes made by the wisedome of our realme, which I thinke superfluous heere to mention.

Appropriation (appropriatio) proceedeth from the French (approprier. i. aptare, accommodare) and properly fignifieth, in the lawe of England, a fevering of a benefice ecclefiafficall (which originally and in nature is, incis diministic in patrimonio nullius) to the proper

and perpetuall vie of some Religious house or Deane, &c. and Chapter, Bishoprick or Colledge. And the reason of the name I take to be this : because that whereas persons ordinarily be not accounted (domini) but (vie frustuary) having no right of fee simple. Littleton. titulo Discontinuance : these, by reason of their perpetuitie, are accounted owners of the fee simple, and therefore are called proprietary. And before the time of Richard the second, it was lawfull (as it seemeeth) fimply, at the least by mans lawe, to appropriate the whole fruites of a benefice to an abbey or priory, they finding one to serue the cure. But that King made so euill a thing more tolerable by a lawe, whereby he ordeined, that in every licence of appropriation made in chauncerie, it should expresly be contained, that the diocesan of the placeshould prouide a conuenient fumme of money yearely to be paide out of the fruites, toward the fuftenance of the poore in that parish, and that the Vicar should be well and sufficiently endowed. anno. 1 5. Rich. 2.ca.6. Touching the first institution, & other things worth the learning about appropriations, reade Plon den in Grendons case. fo. 496. b.& segg. as also the new termes of lawe, verbo Appropriation. To an appropriation, after the licence obteined of the King in chauncerie, the confent of the Diocelan, Patron, and incumbent are necessarie, if the Church be full: but if the Church be voide, the Diocelan and the Patron vpon the Kings licence may conclude it. Plowden vbi supra. To dissolue an appropriation, it is enough to present a Clerke to the Bishop. For, that once done, the benefice returneth to the former nature. Fitzh nat. br. fo. 35. F.

Approvour (approbator) commeth of the French (approuver.i. approbare comprobare calculum albo adjecere) It signisseth in our common law, one that cofeffing felony of him felf, appealeth or accuseth another, one or more, to be guilty of the same; & he is called so, because he must prooue that which he hath alleadged in his appeale. Stampf. pl. cor. fo. 142. And that proofe, is by battell or by the countrey, at his election that appealed. The forme of this acculation, you may in part gather by M. Cromptons Iustice of peace.fo. 250. & 251.that it is done before the coroner, either affigned vnto the felon by the court, to take and record what he faith, or els called by the felon himselfe, and required for the good of the Prince & common wealth, to record that which he faith, &c. The oath of the approuer, when he beginneth the combate, see also in Crompton in the very last page of his booke, as also the proclamation by the Herald. Of the antiquity of this law, you may reade something in Horns myrror of sustices, l. 1. in sine eap. del office del coroner. Of this also see Bratton more at large, lib. 3. tratt. 2. eap. 21. & 34. and Stawns. pl. eor. lib. 2. eap. 52.cum seq.

Approvers of the king (Appraatores regis) be such as haue the letting of the kings demeasnes in smal Manors to the kings best aduantage, anno s1. H. 3. Stat. s.

See Approus.

Approve (appruare) commeth of the French (approver, i. approbare, comprobare, calculum albo adiscere) it signifieth in the common lawe to augment, or (as it were) to examine to the vttermost. For example: to approue land, is to make the best benefite thereof by increasing the rent, &c. So is the Substantine (approvement) ysed in Cromptons inrifd. fol. 153, for the profits them selves. So is it likewise in the statute of Merten cap. a. anno 2. H.3 land newly approued, Old. nat. br. fol. 79. So the Sheriffes called themselues the kings approuers, anno 1. Ed. 3. cap. 8. which is as much in mine opinion as the gatherers or exactors of the kings profits. And anno 9. H. 6. cap. 10. Bailiffes

Bailiffes of Lords in their franchises be called their approuers. But anno 2. Ed. 3. cap. 12. Approuers be certaine men especially sent into seuerall counties of the Realme, to increase the Fermes of hundreds and wapentakes, which sormerly were set at a certaine rate to the Sheriffes, who likewise dimised them to others, the countie Court excepted.

Approvement (approvementum) fee Approve. See the Register iudicials. fol. 8. br. & g. a. See the new tearnes of lawe, verbo (Ap-

prouement.)

Arbitratour (arbiter) may be taken to proceede from either the Latine (arbitrator,) or the French (arbitre) it fignifieth an extraordinarie iudge in one or moe causes, betweene party and partie, chosen by their mutuall consents, West . parte 2. Symb. titulo Compromife. Sett. 21. who likewise divideth arbitrement, into generall, that is, including all actions, quarels, executions, and demands, and special, which is of one or moe matters, facts, or things specified, codem sect. 2. 3. 4. The Civilians make a difference betweene (arbitrum & arbitratorem) 1. 76. 7. pro secio. For though they both ground their power vpon the compromise of the parties: yet their libertie is diuers. For arbiter is tyed to proceede and judge according to

lawe with equitie mingled: arbitrator is permitted wholy to his owne differetion, without folemnitie of processe, or course of iudgement, to heare or determine the controuersie committed vnto him, so it be ineta arbitrium boni viri.

Arches court (Curis de arcubus) is the chiefe and auncientest Cósistorie, that belongeth to the Archbishop of Canterburie, for the debating of spiritual causes: and is so called of the Church in London dedicated to the blessed Virgin, commonly called Bow church, where it is kept. And the Church is called Bow church of the fashion of the Steeple or clocher thereof, whose toppe is raised of stone pillars builded arch-wise, like so many bent bowes.

The Judge of this Court, is termed the Deane of the Arches, or the officiall of the Arches court. Deane of the Arches, because with this officialties commonly ioyned a peculiar jurifdiction of thirteene parishes in London tearmed a Deanrie, being exempted from the authoritie of the Bishop of London, and belonging to the Archbishop of Canterburie: of which the parish of Bow is one & the chiefe, because the Court is there kept. Some others fay, that he was first called Deane of the arches, be-

cause

cause the officiall to the Archbishop, being many times employedabroad, in ambassages for the king and realme, the Deane of the Arches was his substitute in his court, and by that meanes the names became confounded. The jurisdiction of this Judge is ordinarie, and extendeth it felfe through the whole Province of Canterburie. So that vpon any appeale made, he foorthwith, and without any farder examinatio of the cause, sendeth out his citation to the party appealed, and his inhibition to the ludge, from whome the appeale is made. Of this he that will, may reade more in the booke intituled. De antiquitate Eccelesia Britanicabistoria.

Arma moluta, seeme to be sharpe weapons that doe cut, & not blunt that doe onely breake or bruise. Braston. is. 3. trast. 2. ca. 23. & Stampf. pl. cor. fo. 78. & 79. whereof Braston hath these words: arma moluta plagam faciunt, sicut gladius, bisacuta, & huismodi: ligna verò & lapides brusuras, orbes, & istus, qui indicari non possunt ad plagam adhoc, vt inde veniri possit ad duellum.

Armour (arma) in the viderflanding of our common lawe, is extended to any thing, that a man in his anger or furic taketh into his hand, to east at or strike another. Cromptons Instice of peace. fe. 65. a. So, armorum appellatio, non vtiq; scuta & gladios & galeas significat, sed & fustes & lapides.l.42. π de verbo. significatione.

Array (arraia, alias arraiamentum) commeth of the French (array i.ordo.) which is an old word out of vie: or it may be well deduced from (raye.i.linea) It fignifieth in our commo lawe, the ranking or fetting forth of a jurie or enquest of men impaneled vpo a cause.a.18. H.6 c.14. Thence is the verb to array a panel. owld.nat. br.fo. 1 57 .that is to set forth one by another, the men empaneled . The array shalbe quashed. on ld. nat.br.fo. 1 5 7. By statute, every array in affife, ought to be made soure daies before : Broke. titulo Panelnu. 10.to chalenge the array Kitchin.fo.92.

Arreyers, seemeth to be vsed in the statut. anno. 12 Rich. 2.ca. 6. for such officers, as had care of the souldiers armour, to see them duly appointed in ther kindes.

Arraine (arraniare) commeth of the French (arranger.i. astitue-re, ordinare,) that is, to set a thing in order, or in his place, and the same signification it hath in our common law. For example, he is saide to arraine a writ of novel disseism in a countie, that sitteth it for triall, before the Justices of that circuit. orld nat. br. so. 109. Litleton. so. 78. vieth the same wordin the same sence. viz. the lease arraineth an assisse of nouel

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disseisin. Also a prisoner is said to be arrained, where he is indighted and brought forth to his triall. Arrained within the verge vpon murder. Stanns. pl. cor. so. 150. The course of this arrainment, you may read in S. Thomas Smith de repub. Anglo. li. 2. ca. 23.

Arrearages (arreragia) commeth of the French (arrierages.1. reliqua) It fignifieth the remaine of an account, or a fumme of mony remaining in the hands of an accountant. It is vsed sometime more generally, for any mony vnpaide at the due time: as arrearages of rent. That this word is borowed from France, it appeareth by Tiraquel de vtrog, retractus, tomo. 3.pa.32.nu.10.

Arrest (arestum) commeth of the French (arrester.i. retinere, retare. subsistere) or rather, it is a French word in it felfe, fignifying a feeling, flop, or flay, and is metaphorically vsed for a decree or determinatio of a cause debated or disputed to and fro, as (arrest du Senat.i.placitum curia) In our comon law, it is taken most of all for a flay or floppe: as a man apprehended for debr, &c. is faid co be arrested. To pleadein arrest of judgment, is to shew cause why judgment should be stay. ed though the verdictof the 12. be passed. To plead in arrest of taking the enquest vpon the former issue, is to shew cause why an enquelt should not be taken. &cc Broke. tit. Repleder. Take this of learned M. Lambard in his eirenarch.li. 2.ca. 2. pa.94. Bude. (faithhe) in his greeke commentaries is of opinion, that the French word(arrest) (which with them fignifieth a decree or judgment of court, tooke beginning of the Greeke (aperoy. i. placitum) and as we might fav, the pleasure and will of a court. And albeit it were not out of the way to think that it is called an arrefl. because it stayeth or arresteth the partie: yet I beleeue rather. that we received the fame from the Normane lawes, because we vic it in the same sence with the. For commonly with vs, an arrest is taken for the execution of the commaundement of some court. or of some officer in inflice. But howfocuer the name began: an arrest is a certaine restraint of a mans person, depriving him of his owne will and libertie, and binding it to become obedient to the will of the lawe. And it may be called the beginning of imprisonment. Precepts & writs of the higher courts of lawe, do vie to expresse it by two fundry words: 25 (capias) and (attachies) which fignifie to take or catch hold of a man. But this our precept noteth it by the words (duce facias) that is, cause him to be conucyed, &c. For that the officer hath (after a fort) taken him before, in that he commeth vnto him, and requireth him to go to fome Justice of the peace. Thus farre M. Lamberd. And by like this word is spred farder then France. For Galle a Germaine writer sheweth by his Tractate (de arrestis imperia) that it is vsed also in the imperial territories, & in the same significatio, e.s.n.s.

Arrestandis bonis ne dissipentar, is a writ which lyeth for him, whose catell or goods are taken by another, that, during the controuersie, doth, or is like to make them away, and will be hardly able to make satisfaction for the afterward, Reg. orig. fol. 126.b.

Arrestando ipsum qui pecuniam recepit ad prosiciscendum in obsequium Regis, & c. is a writ that lieth for the apprehension of him, that hath taken prest money towards the kings warres, and lieth hidden when he should goe. Re-

gifter. orig. 24. b.

Arresto satto super bonis mercatorum alienigenorum, &c. is a writ
that lyeth for a denizen against
the goods of strangers of any other countrie, found within the
kingdome, in recompence of
goods taken fro him in the said
countrie, after he hath hene denied restitution there. Register. orig. fo. 129.a. This among the auciet Civilians was called clarigatio) now barbarously (represalse.

Arreited (arrectatus) is he that is convented before a ludge and charged with a crime. Stampf.pl. cor. lib. 2. 45. qual ad rectum vocars. It is vsed somtime, for (imputed or laid vnto) as, no folly may be arretted to him being vnder age. Litleton cap. Remitter. The Latine substantiue (Rettum) is vied in the Register orig. Chancer vieth the verb (arretteth) ideft, layeth blame, as M. Speight interpreteth it. I may probably conjecture, that this word is the Latine (rectum.) For Bracton hath this phrase (adre-Etum habere malefaltorem) i. to have the malefactor foorth coming: so as he may be charged, and put to his triall. lib. 3. tract. 2. cap. 10. and in another place (rectaius de morte hominis) i. charged with the death of a man, ed. сар. 1. пит. 2.

Articles of the Cleargie (articuli Cleri) be certaine statutes made touching persons and causes ecclesiasticall, anno 9. Ed. 2. Like vnto which there were other made, anno 14. Ed. 2. stat. 2.

Assay of measures and maights (assain mensurarum & ponderum). Register. orig. fol. 279. is the examination yied by the Clerke of the market.

Assayer of the king, is an officer of the mint, for the due triall of filuer, indifferently appointed betwint the maister of the Mint,

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and the merchants that bring filuer thither for exchange. anno 2.

H.6. cap. 12.

Assalt, insultus, commeth of the French verb (affailir. i. adorai, appetere, invadere) which French also proceedeth from the Latine (affilire. i. vim afferre, oppugnare.) It fignifieth in our common lawe, a violent kind of iniurie offered to a mans person, of a higher nature then batterie. For it may be committed by offering of a blowe, or by fearefull speech. M. Lamberd in his eirenar. lib. 2. cap. 3. whome reade. The feudiffs call this (affultum) and define irthus : Affalius, eft impetus in personam aut locum, sine boc pedibus fat vel equo, aut machinis, aut quacunque alsa re assiliatur. Zasius de fend. parte 10. nu. 38. And (affilire) eft, vim adferre, adoriri, oppugnare, li. fend. I. tit. 5.

Affach, seeineth to be a Welch word, and to signifie so much, as a kind of excuse, or strange kind of purgation by the oathes of three hundred men. anno 1. H. 5.

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Assart (assartum) in M. Manmoods indgement parte. 2.0a. 9.nu. 5. of his forest lawes, commeth of the French (assartin) signifying (as he faith) to make plaine, or to furnish; but rather indeede, to set in order and handsomly to dispose. Assartum est, quod redattum

est ad culturam. Fleta.li. 4. ca. 21.6. Item respondere. It fignifieth, as the faid M. Manwood faith na. 1. vb. Supra, an offence committed in the forest, by plucking vp those woods by the rootes, that are thickets or coverts of the forest. and by making them plaine, as earable land, where he also faith, that an affart of the Forest, is the greatest offence or trespasse of all other, that can be done in the forest, to vert or venison, containing in it as much as waste or more. For whereas the waste of the Forett, is but the felling and cutting downe of the couerts, which may grow againe in time: an affart, is a plucking them vp, &c. which he confirmeth out of the redde booke in the Exchequer, in these words: Affarta vero, occasiones nominantur, quando sc:foresta nemora vel dumera, pascuis & latibulis ferarum oportuna, succiduntur: quibus succisis & radicitus avulsis, terra subvertitur & excolitur. And again out of the Register originall. fo. 257.a. b.in the writ (ad quod damnum) sent out in case, wherea man fueth for a heence, to affart his grounds in the Forest, and to make it severall for tillage. Soe that it is no offence, if it be done with licence. To this, may Bracton also be added. li. 4. ca.38 nu. 11. where he faith, that these words (boscus efficitur assar. tum) signific as much, as (redactus

in culturam) of this you may read more in Cromptons Iurisdictions. fo. 203. and in charta de foresta, anno. 9. H.3. ca.4. where the english word is not (assart) but affert, & in Mannood, parte. 1. of his Forest lawes. pa. 171. The word is vsed. anno. 4. Ed. 1. stat. t. in the same signification. That which we call (assartum) is els where tearmed Desoscatio. Decis Genu. 74.

Assembly value full, (illicita affemblata) cometh of the French (assembler. i. aggregare) whence also is the substantine assemble.i. coitto, congregatio) It is in our common lawe (as M. Lamberd defineth it, eiren. li. 1. ca. 19.) the companie of 3. persons (or more) gathered together to doe an value will act, although they doe it not. See ynlawfull assemblie.

Affets (quod tantundem valet) Bratt.li. z.tratt. z.ca. 8.nu. z.is nothing but the French (affez. 1.fatis) For though this word masque under the vizard of afubstantine, it is in truth but an adverb. It fignifieth in our common lawe, goods enough to discharge that bruden, which is east voon the executour or heire, in the fatisfying of the tellators or auncestors debts or legacies. See Brooke, titulo Assets per discent: by whome you shall learne, that who so eyer pleadeth affets, layeth nothing, but that he against whome he pleadeth, hathenough descended or come to his hands, to discharge that which is in demand. The author of the newe tearmes of lawe, maketh. 2. forts of affets, viz. affets par discent, &t affets enter mains. the former, being to be alleaged against an heire, the other, against an executor or administrator.

Assigne (assignare) both it selfe, and the French (affiguer) come of the latine. It hath two fignifications: one generall: as to appoint a depute, or to fet ouer a right vnto another In which fignification, Britton. fo. 1 22. faith this word was first brought into vie, for the fauour of Bastards; because they cannot runne under the name of heires to their fathers, and therefore were & are comprised under the name of (affignees) The other fignification of this word is especial, as to appointe at, or fet forth. viz. to affigure errour.old.br.nat.fo. 19.is to thew in what part of the proces errour is committed. To affigue falle judgement. eodem. fo 17. that is, to declare how and wherethe indgement is vriuft. To affigue a falfe verdict. eodem fo. 112. and to affigue an oath to be false, anza. 9.R. v.ca. 2. To affigne the ceffor, old.nat.br.fo. 134.1. to show how the plaintife had ceffed, or giuen ouer. To affigne walt, is to shewe, wherein especially the walt is comitted. Reg. orig f.72.

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Affigre,

Affigne, in the generall fignification is yied. anno 20. Ed 1. er anno 11. H. 6. cap. 2. in thefe words: Iustices affigned to take affifes. And the Substantiue (affignement) hath the same fignification. Wests symb. parte 1. lib. 2. feet. 496. & feg. In which maner is also vied the adiective (affignee, assignatus) viz. for him that is appointed or deputed by another to do any act, or performe any bufineffe, or enioy any commoditie. And an affignee may be either in deed, or in law. Affignee in deed, is he that is appointed by a person, an assignee in lawe is he, whom the lawe so maketh without any appointment of the person. v. Dyer fol. 6. num. 5. Perkins in Grauntes faith, that an assignee is he, that occupieth a thing in his owne right, and depure, he that doth it in the right of another.

Assis (assis) commeth of the French (assis) which in the grand custumarie of Normandy, cap. 24. is defined to this effect. Assis is an assembly of Knights and other substantial men, with the Bailisse or Instice in a certain place, and at a certaine time appointed. And againe, cap. 55.

Assis is a court, in the which what source is done, ought to have perpetuall strength. This Normane word (assis) commeth of the French (associate)

to fettle or bestow in some place certaine: as (fasseoir) is to sit downe by another. And metaphorically it is vied of things incorporeall: as (affeoir for ingement (ur quelque lien) is, interponere iudicium funm. Of this verbe commeth the participle (affis) as (estre assis)i sedere. And this Participle in the grand custumarie of Normandie, cap. 68. is vsed as we would fay: appointed, limited, or determined, viz. (an iour qui est assis à faire la battaille, se doibnent les champions offrir à la instice) that is: at the day which is appointed for the combat, the champions ought to offer themselves to the Instice. So that by all these places compared together, it is euident whence the original of this word (affile) floweth. How diucifly it is vsed in our common lawe, it followeth that we declare. First Intleton in the chapter, Rents. faith, that it is agnivocum: where he fetteth downe three feuerall fignifications of it: one, as it is taken for a writ: another, as it is vied for a Iurie: the third, as for an ordinance. And him, he that lifteth, may reade more at large. My collections have ferued me thus: first (affife) is taken for a writ directed to the Shyreeue, for the recouerie of possession of things immoueable, whereof your felfe, or your auncestor have bene diffeised.

differied. And this is as well of things corporall as incorporeall rights, being of foure forts: as here they follow in their order.

Affile of novel desteifin affila novadiseifine)lyeth where a tenent in Fee-simple. Fee-taile, or for tearme of life, is lately diffeised of his lands or tenements, or elfe of a rent service, rent seck, or rent charge, of common of patture, of an office, of tolle, tronage, passage, pownage, or for a nufance leuied, and divers other fuch like. For confirmation whereof, you may reade Glanvile lib.10.cap. 2. Bracton lib 4 tract.1. per totum. Britton cap. 70. 6 fegg. Register orig. fol. 197. Fitz.nat. br. fel. 177.178. 179. new booke of entries. fol. 74. col. 3. Weft. 2. cap. 25. anno 13. Ed. 1. And to this may aptly be added the Bil of fresh force (frisca fortia) which is directed to the officers or magiffrates of Cuics or Townes corporate, being a kinde of affife for recovery of possession in such places within 40. daies after the force, as the ordinarie affife is in the countie. Fitzh.nat. br.fo.7.c. This the Civilians call, indicism possessorium recuperandi.

Assis of mort a' auncester (assis mortis antecessoris) lyeth, where my father, mother, brother, sister, vncle, aunte, &c. died seised of lands, tenements, rents, &c. that he had in see simple, and after his

deathas strainger abateth: an it is good, as well against the abatour, as any other in possession. How likewise this is extended, see Braston. In 4. trast. 3. per rotum, Britton. ca 70. cum multis sequent. Fuzh. nat. br. fo. 114. Register. orig. fo. 223. This the Civilians call, Indicium possession adaptendi.

Affife of darrein presentment (affifa vitima prasentationis) heth, where I, or mine auncestor have presented a Clerke to a Church, and after (the Church being voide by the death of the said Clerke or otherwise) a strauger presenteth his Clerke to the same Church, in disturbance of me. And how otherwise this writ is vsed, See Braston. li. a. trast. 2. Register.orig. fo. 30. Fuzb. nathr. fo. 197.

Affise de virum (assisa urrum) lieth either for a parfon against a lav man, or alay man against a parson, for land or tenement doubtfull, whether it be lay fce, or free almes! And of this fee Braston.li.4. trast. 5. cap. 1.6 fegg. Brit.ca.95. The reason why these write be called affifes, may be diners. First, because they settle the possession, and so an outward right in him that obceincth by them. Secondly, they were originally spedde and executed at a certaine time and place formerly appointed. For by the Norman law, the time and place

must

must be knowne 40. daies before the Iustices fate of them; and by our lawe, there must be likewise 15. daies of preparation, except they be tried in those standing courts of the king in Westminster: as appeareth by Fitzb. nat.br.fo. 177. D. E. Lastly, they may be called affifes, because they are tried most commonly by especial courts, set & appointed for the purpose: as may be well proved not onely out of the custumarie of Normandie, but our bookes alfo: which shew, that in auncient times, Iultices were apointed by especiall commission, to difpatch controverses of possession, one or more, in this or that onely countie, as accasion fell out, or diffeilins were offered, & that as well in terme time, as out of terme: whereas of later daics. wee fee that all thefe commissions of affises, of eyre, of over & terminer, of gaol delinerie, and of nest prims, are dispatched all at one time, by two severall circuits in the yeare, out of terme, and by fuch as have the greatest fway of Iustice, being al of them, either the Kings ordinarie Iustices of his benches , Sergeams at the lawe, or fuch like.

Assisfe, in the second signification (according to Lisleton) is vsed for a surie. For (to vse his owne example) it is set downe in the beginning of the record of

an affile of sovel differin . Affila venit recognitura; which is as much to fay, as Iuratores veniunt recognituri. The reason why the Iurie is called an affife, he giueth to be this: because by the writte of affife, the Shyreeue is commaunded awod faciat duodecim liberos & legales homines de viceneto coc. videre tenementum illud, co nomina corum imbreviari, & quod Summoneat eos ter bonas summonitiones, quod fint coram Institurius. &c.parati inde facere recognitio. nern, &c. This is (as if he should haue spoken shorter) metonymia effecti. For they are called the affiles, because they are summoned by vertue of the writ so termed. And yet the Iurie summoned ypon a writ of right, is likewise called the affife, as himfelf there confesseth: which writ of right is not an affise. But this may be faid to be nalaxensinas, or abufinely so tearmed. Affice, in this signification, is diuided in magnam & paruam. Glanvile lib. 2.ca. 6.7. &c. and Brition.c. 12. where it appeareth, wherein the great affile differeth from the petit alfife: whome I wish to be read, by thosethat would be furder instructed in this point. For this place, thus much in short. The former 4. kindes of affises vied in actions only possessiony, be called petit assises, in respect of the graund affise. For the law of feele is grouded vpon two rights:one of possession, the other of propertie: and as the grand assise serueth for the right of property, so the petit assise serueth for the right of possession. Horns myrror of sustices, lib. 2. cap. de novel.

di Teisin. Affife in the third fignification according to Litleton, is an ordinance or statute: as the statute of bread and ale made, anno 51.H.3 is termed the affife of bread and ale (assisa panis & cernicia, Regist. orig. fol. 279.b. The affise of Clarendon, (affifa de Clarendon) wherby those that be accused of any hainous crime, and not able to purgethemselues by fire and water, but must abiure the realme, had libertie of 40. daies to stay, and trie what succour they could get of their friends, toward their sustenance in exile. Stannf.pl.cor. fol. 118. out of Bracton li. 3. tract. 2. cap. 16. num. 2. Of this also Roger Hoveden maketh mention, and more particularly then any that I have read, parte poster. suorum annalium, fol. 313.b. in Henrico secundo. Assise of the Forest, (affisa de Foresta) which is a statute or constitution touching orders to be observed in the kings forest. Manwood parte. 1. of his Fo. rest lawes, pag. 35. Crompton in the Court of the Iustices of the Forest per totum, fol. 146. & seq. And the affife of the king, anno.

18. Ed. 2. flat. 1. called the flatute for view of Francke pledge. And these be called affises, because they set downe and appoint a certaine measure, rate, or order in the things which they concerne. Of affife in this fignification doth Glanvil also speake, lib. 9. cap. 10. in fine. Generaliter verum est quod de quolibet placito quod in comitatu deducitur co terminatur, misericordia que inde pronenst, vicecomiti debetur: qua quanta sit, per nullam assisam generalem determinatumest. And thus much touching Litletons divisio. But if we marke well the writers of the lawe, we shall find this word (affife) more diverfly vsed, then this author hath noted. For it is ysed sometime for the meafure or quantity it selfe, (and that per Metonymiam effecti) because it is the very scantline described or commaunded by the ordinance: as for example we fay, when wheate, &c. is of this price, then the bread, &c. shall be of this offise. This word is furder taken, for the whole processe in court vpon the writ of affife, or for some part therof, as the issue or verdict of the lury. For example, affises of new diffeisin, &c. shall not be taken, but in their Thires, and after this maner, &c. mag. char. cap. 12. And fo it feemeth to fignifie, Westm. 2. cap. 25. anno 13. Ed. 1. in these words: FI let

let the disseissours alledge no falle exceptions, whereby the taking of the affises may be deferred &c. And anno 34. Ed. 1. fat. 2. if it befound by affise: the affife is arrained: to averre by the affise: the affise by their default shal passe against them: and also an. I. H. 6. cap. 2. affiles. awarded by default of the tenents, &c. Lastly, by Merton, cap. 4. anno 20. H. 3. certified by the affife, quite by the affife,&c. And in this fignification, Glanvile calleth it, magnam affifam domini regis: que ex duodecim ad minus legalium hominum sacramentis conststit .lib. 2. cap. 7. Bracton vieth it in like fort: as affifa cadit in tranfgressionem. lib. 4. cap. 30. & assisa cadit in perambulationem. eodem. cap. 31.num. 2. Fleta defineth an affife in this fignification, thus: Affifain sure possessorio, est quadam recognitio duodecim hominum iuratorum, per quam Insticiary certiorantur de articulis in breui contentis. An affile also thus fignifying, is faid fometime to passe, (per modum affife) and sometime in modum wrate. in maner of an affife, when onely the diffeifin in question, is put to the trial of the twelue: in maner of a jurie, when as any exception is objected to disable the interest of the disseilee, and is put to be tryed by the twelve, before the affife can passe. As for example: Quastio

I status, causa successionis, causa donationis pactum sue conditio vel co. uentio, voluntas & dissimulatio. transactio, vel quietaclamatio vel remissio, confirmatio sine consensus. propria v surpatio rei propria, difficultas indicy, instum indicium, finis, chirographum, intrusio in rem alienam, vel diseisina, si incontinenti reigeiatur, negligentia que per transitum temporis excludit aftionem. Fleta.lib. 4. cap. 10. S. 1. whome reade also to this point, cap. 11.6. Si autem à Domino: and at large, cap. 16. eiusdem libri. & lib. 5. cap. 6. S. Item vertitur assisaco seg. And note that affife in this fignification, is taken foure waies. Old nat. br. fol. 105. The first, is affife at large, which is taken aswell vpon other points, as vpon the diffeifin. For example, where an infant bringeth an assife, and the deed of his auncestor is pleaded, whereby he claimeth his right or foundeth his title: then the affife shall be taken at large: that is, the lurie shall enquire, not only whether the plaintiffe were diffeifed or not by the tenent, but also of these other points: viz. whether his auncestor were of full age, of good memorie, and out of prison, when he made the deed pleaded. Another example out of Kitchin, fol. 66. The tenent pleadeth a forraine releafe, in barre to an assise, whereupon the cause was adjourned. At the

day

day the tenent maketh default. Therefore the assise was taken at large: that is, not onely whether the plaintiffe were disseised, but also whether there be any such forraine release. A third example you may reade in Litleton. cap. Estates upon condition. The second maner of assife in point of assise (assis in modum assis) which is, when the tenent, as it were, fetting foote to foot with the demandant, without furder circumstance, pleadeth directly contrarie to the writ, no wrong, no disseisin. The third manner is, assise out of the point of assise (assisa extra assisam, vel in modum iurate.)viz.when the tenent alledgeth some by exception, that must betried by a Iurie, before the principall cause can proceed: as if he pleade a foreine release, or foreine mater tryable in another countie. For in this case, the Inflices referre the record to the Court of common plees, for the triall of the foreine plee, before the disseisin can come to be discussed. Of this fort reade divers other examples in Bratton, lib. 4. part. 1.cap. 34. For there be of them (as he faith) and Britton also, cap. 52. both dilatorie and peremptorie. The fourth and last manueris:assise of right of dammages, and that is, when the tenent confessing a putting out, and referring it to a demurrer in

lawe, whether it were rightly done or not, is adjudged to have done wrong. For then shall the demandant have a writ to recover dammages, which is called assise to recover dammages, as also the whole processe.

Affife, is further taken for the court, place, or time, where and when the writs and processes of assise be handled or taken. And in this fignification assife is generall: as when the luftices passe their seuerall circuits, euery couple with their commission, to take all assises twice in the yeare. For he that speaketh of any thing done, at that time, and in that place, will commonly fay, that it was done at the generall assise. It may likewise be speciall, in this signification : as if an especiall commission should be granted to certaine (as in ancient times they often were, Bra-Elon. lib. 3. cap. 11. in fine) for the taking of an assife vpon one diffeifin or two: any thing done in the court before them, a man would fay, it was done at fuch an especiall assife. And in this very fignification doth Glanvil vse it, lib. 9. cap. 12. in these words: Si contra dominum suum & non infra assifam, tunc distringitur ipse occupator, &c. and lib. 13. cap. 32. in these words: cum quis itaque infra assisam domini regis.i. infra tempus à domino rege de consilio proceruna ad

ad hoc constitutum, quod quando a maius, quandoq minus censetur, alium iniuste & sine indicio disseisivern, &c. Of this word assise, you may reade in M. Skene, de verbo. fignif. verbo. Assife, and by him understand, that in Scotland alfo in is diverfely vied, viz. in 5. feuerall fignifications. And touching the fifth fignification, he hath thele words: An affife is called a certaine number of men lawfully fummoned, received, fworne and admitted to judge and differne in fundrie civil caufes, fyke as perambulations, cognitions, molestations, pourpresture, division of lands, seruing of brieues, and in all and fundrie criminall causes decided and tried by an assise: whereof there are two kinds: one ordinarily in vie, which may be called a litle assise of the number of 13.01 15 persons: the other, called a great assise, which consisteth of 27. persons, &c. The rest is very worthe the reading.

Assis a continuanda, is a writte directed to the Instices assigned to take an assise, for the continuance of the cause, in case where certaine records alleaged, cannot in time be procured by the party that would wie it. Reg origis. 217.

Assis a proroganda, is a writ directed to the Justices of assis, for the stay of proceeding, by reason of the Kings builnes, wherein the

partie is imploied. Register.orig.

fo. 208. and fo. 221.

Association (associatio) is a patent sent by the King, either of his owne motion, or at the suite of the plaintife, to Iustices appointed to take assisted of novel disseism, or of over and terminer, &cc. to take others vnto them as selowes and collegues in that busines. The dirivation is plaine: the examples, and sundrie vses hereof you may finde, in Fitzh.nat. br. fo. 185. E. & fo 111. B. but more particularly in the Reg. orig f. 201. 202. 205. 206. 207. 223. 224.

Assoile (absolvere) commeth of the French (absoldere) and fignificant to deliuer or set free from an excommunication. Stampf.pl.cor. fo.72. in words to this effect: Otherwise the defendat should remaine in prison, will the plaintiffe were assoyled, that is, delineted from his excommunication.

Assumpsit, is a voluntarie promise made by word, whereby a man assumeth or taketh vpon him to performe or pay any thing vnto another. This word containeth any verball promise made vpon consideration, which the Civilians expresse by divers words, according to the nature of the promise, calling it sometime passum, sometime from sometime promissionem, pollicitationem or constitutum, the word seemeth to be drawne from the la-

tine (assumptio) que significat professionem. l.a. ad municipalem.

Attache (attachiare) cometh of the French (attacher. i.figere, ne-Etere illigare, defigere, alligare) In our common lawe it fignifieth, to take or apprehend by commaundement or writte. And M. Lamberd in his eirenarch. li. I.cap. 16. maketh this difference betweene an arrest and an attachement, that an arrest proceedeth out of lower courts by precept, and an attachment out of higher courts by precept or writ: and that a precept to arrest hath these formall words (duci facias &c) and a writ of attachment these words: (pracipimus tibi quod attachies talem, & habeas eum coram nobis &c. whereby it appeareth, that he which arresteth, carieth the party arrested to another higher person to be disposed of forthwith, he that attacheth, keepeth the party attached, and prefenteth him in court at the day affigned in attachement. yet I obserue out of Master Kitchin, that an attachement islueth out of a court baron, which is a lowe court. cap: Attachment in court baron, fo. 79. Another difference there is, that an arrest lieth onely vpon the body of a man, and an attachement some time vpon his good, as shalbe shewed in the sequele. It may be likewise asked how an attachement and a (capias) doe differ: & how an attachement and a (cape) and an attachement and a diftreffe. First that an attachement differeth from a (capias)it : ppeareth by Kitchin in these words:fo. 79. Note that in a court Baron a man shalbe attached by his goods; and a (capias) shall not goe out thence. wherby I gather, that an attachement is more generall, taking hold of a mans goods, and a (capias) of his body onely. Then an attachement differeth from a (cape) in this, because a (cape) be it (cape magnum) or (cape parvum) taketh hold of immoyeables, as lands or tenements, and are properly belonging to action reall: as you may gather out of their formes, in Fitzh.nat. br. whereas attachemet hath rather place in actions personall, as Bracton plantly setteth, downe.li.4.tracta.4.ca.5 .nu. 3. Where neuerthelesse it appeareth that a (cape) may be likewise vsed in an action personall . An attachement (as it is formerly faid) taketh hold of moueable goods or the bodie. For it appeareth, by Kitchin. fo. 263. that a man may be attached by a hundred sheepe. Reade Skene, de verbo. signific. verbo attachiamentum.

Now it followeth to shew how attachement differeth from a distresse. For so it doth, as may be shewed out of Kitchin, so. 78.

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where he laith, that processe in court baron, is fummons, attachment, and distresse, out of the owld.nat.br.fo. 27. where it is faid, that a processe in a (quare impedit) is summons, attachement, and one distresse, and, againe fo. 28. wheare (speaking of the writ) ne admittas) he faicth thus: and the processe is one prohibition, and vpon the prohibition an attachment and distresse, and fo. 32. in a writ of (Indicauit) you have these words: and after the attachment returned the distresse shall goe out of the rols of the Iustices. Bracton on the other fide, li. 5. tract. 3.ca. 4. nu. 2. sheweth, that both (attachiamentum, & magnum cape, districtiones sunt). of which opinion Fleta also is, le. 5. ca.24.5. si autem ad. But there also he saith, that (attachiamentum est districtio personalis, & cape magnum districtio realis. So that by his opinion, districtio is (genus) to attachement . Britton in his 26. chapter, hath words to this effect: but in attachement of felony, there commeth no distresse. otherwise then by the body. And if the Shyreeue return in the cases aforesaid, that the trespasfours have nothing in his bayliwick, by the which they may be distremed, it must be awarded that he take their bodies, &c. In which place, an attachement is plainly vied, for an apprehension

of an offender by his goods. So that to conclude, I finde no difference between an attachment. and a diffresse, but these two: that an attachement reacheth not to lands, as a diffresse doth. and that a distresse toucheth not the bodie (if it be properly taken) as an attachement doth. vet are they divers times confounded, as may appeare by the places formerly alleadged, and by Glanvile.li. 10.ca. 3. and Fleta. li.2.ca.66.6 fegg. How beit, in the most common vse, an attachmentisan apprehesion of a man by his body, to bring him to anfwer the action of the plaintiffe: a distresse is the taking of another mans goods, for some reall cause, as rent, service, or such like, whereby to drive him to replevie, and so to be plaintiffe in an action of trespas, against him that diffreined him. And fo much for the difference, and coherécie of these words. See also Diffres.

I finde in West. parte. 2. Symbolaio. titulo. proceedings in chauncerie. sett. 22.23. that attachement out of the chaucery is two-fold, one simple, and originally decreed for the apprehension of of the partie: the other, after return made by the Shyreeue quid defendens non est inventus in baliva sua, with proclamations made through the whole councie, in such places, as he shall thinke

meete, that the partie appeare by a day affigued, and that he attached never the lesse, if he may be found. This second kinde hath an affinitie with the canonists (vijs & modis) at the which if the partie apppeare not, he is excommunicate; or with the Civilians (vijs & modis vna cum intimatione) For in the chaucerie, if he com not vpo this, he is forthwith pressed with a writ of rebellion.

There is an attachment of priviledge, which is a power to apprehend a man in a priviledged place, or els, by vertue of a mans priviledge, to call another to this or that courte, whereunto he himselfe belongeth, and in respect whereof, he is priviledged. Newe booke of entrife. verbo priviledge. fo 4; 1.col. 2. There is also a foreine attachement, which is an attachement of a foriners goods found within a libertie or citie, to satisfie some creditour of his within the citie. There is also an attachement of the forest, which is a court there held. For (as M. Manwood faith) in his first parte of forest lawes, p.90.92.99. there be three courts of the forest, wher of the lowest is called the (Attachement) the meane, the (swaynemote) the highest, the (Instice seate in eyre.) This court of attachement seemeth fo to be called, because the verderours of the forest haue

therein no other authoritie, but to receive the attachements of offenders against vert and venifon, taken by the rest of the officers, and to enrol them, that they may be presented and punished at the next Iustice seate. Manwood.parte. 1.pa. 93. And this attaching is by three meanes, by goods and catels, by body, pledges, and mainprise, or by the body onely. The courte is kept euery.40.daics throughout the vere. And he that bath occasion to learne more of this, Irefer, him to M. Manwood, loco quo supra, & to M. Crompton in his courte of the forest. Attachement is commaunded in writs, the diversitie whereof you may see, in the Reofter originall under the word Attachiamentum in indice.

At large, see affise at large in the word affise, and onld nat. tr. fo. 105. Verdict at large. Lntleton. fo. 98. To youth at large. onld. nat. br. fo. 108. To make title at large. Kutchin. fo. 68. See Barre.

Attaint (attintta) contineth of the French, as you shall see in the word (attainted) But as it is a substantiue, it is vsed for a writ that lyeth after judgement, against a lurie that hath given a fasse verdict in any court of record (be the action reall or personall) if the debt or dammages surmount the summe of 40 shillings: what the forme of the writ is, and how

in vse it is extended, see Fitz.na. br. fol. 105. and the new booke of entries, fol. 84. colum. 1. The reason why it is so called, seemeth to be, because the partie that obtaineth it, endeuoureth thereby to touch, deprehend, or staine the Iurie with periurie, by whose verdict he is grieued. What the punishment of this periurie is, or of him that bringeth the writ against the Iurie, if he faile in his proofe, see Glanvile lib. 2. cap. 19. Fitz. nat. br. fol. 100. K. L. & 110. A. B. C. D. &c. the termes of the lawe, verb. Attaint. Fortescue cap. 26. Smith de rep. Anglo. lib. 3. cap. 2. and anno 11. H. 7. cap. 21. o an. 23. H.S. cap. 3. and others. In what diverfitie of cases this writ is brought, feethe Register orig. in Indice.

Attainted (attinctus) commeth of the French (teindre. i. tingere: the participle whereof is (teinet. i. tinctus,) or else of (attaindre. i. assegui, attingere.) It is vsed in our common lawe, particularly for fuch as are found guiltie of some crime or offence, and especially of felonie or treason. How be it a man is faid to be attainted of of diffeifin. Westm. 1. cap. 24. & 36.anno 3. Ed. I. And so it is taken in French likewise (as estre attaint & vaynou en aucun cas) is to be cast in any case. Which maketh me to thinke that it rather cometh from (attaindre) as we would fay in english carched. ouertaken, or playnly deprehended. And Britton ca. 75. vieth the participle (attaint) in the sence that we say (attained vnto) A man is attainted by two meanes: by appearance or by proces. Stawnf.pl.cor.fo.44. Attaynder by by apparence, is by confession. by battelll, or by verdict. idem. fo. 122. Confession whereof arrayut groweth, is double: one at the barre before the judges, when the prisoner vpon his endictment read, being asked guilty or not guilty, answeareth guilty, neuer putting himselfe vpon the verdict of the Iurie: the other is before the coroner in fan-Auarie, where he vpon his confession was in former times constreyned to abiure the Realme. which kinde also of the effect, is called attaynder by abiuration. Idem. fo. 182. Attaynder by battel is, when the party appealed by another, and chusing to trie the the truth by combat rather then by Iurie, is vanquished. Idem.fo. 44. Attaynder by verdict is, when the prisoner at the barre answering to the endictment, not guilty : hath an enquest of life and death paffing vpon him, and is by their verdict or doome pronounced guiltie. Idem fo. 108. & 192. Attainder by processe (otherwise called attainder by

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default. or attainder by outlagarie) is where a partie flieth, and is not found vntill he have bene fine times called publikely in the countie, and at the last out-lawed vpon his default. Idem. fol. 44. I find by the same author. fol. 108. that he maketh a difference between attainder and conviction. in these words: And note the diuersitie betweene attainder and conviction, &c. And with this 2greeth the Statute, anno 34.6 35. H. S. cap. 14. in ipso principio, and anno I. Ed. 6. cap. 12. in these words: that then every such offender being duly thereof convicted or attainted, by the lawes of this realme, &c. And againe, in these words: Euery woman that is, or shall fortune to be wife of the person so attainted, convicted, or outlawed, &c. To this you may likewise adde the stat. anno 2. & 3. Edw. 6.cap. 33. And I find by Stawnf. pl. cor. fol. 66. that a man by our ancient lawes, was said to be convicted presently vpon the verdict (guiltie) but not to be attainted, vntill it appeared that he was no clerke: or being a clerke, and demanded of his ordinarie, could not purge himselfe. So that a man was not attainted vpon conviction, excepthe were no Clerke: and,in one word, it appeareth, that attainder is larger then conviction; conviction being onely by the Iuric.

And attainder is not before indgement, Perkins Graunts num. 27.29. Yet it appeareth by Stawnf. fol. 9. that conniction is called attainder sometime. For there he saith, that the verdict of the Iurie doth either acquit or attaint a man: and so it is, Wessm. pr. cap. 14. anno 3. Ed. 1. This auncient lawe touching the conniction and purgation of Clerkes, is altered, by anno 23. Eliz cap. 2. as you may farder reade in Clergie.

Attainder (Attmelus) though it be most vsed in matters of felonie and treason: yet is it likewise applied to inferior transgressions, as to disseisin, Westm. 1. eap. 36. anno 3. Ed. 1. and Britton cap. 26. See Attaint, and Attainted.

Attendant (attendens) cometh of the French (attendre. i. demorari, opperiri, expectare, prastolari,) it fignifieth in our common law, one that oweth a dutie or service to another, or after a sort dependeth of another. For example, there is Lord, mein, and tenent: the tenent holdeth of the mesn by a peny; the mesn holdeth ouer by two pence. The meane releaseth to the tenent all the right he hath in the land, and the tenent dyeth. His wife shall be endowed of the land, and the shall be attendent to the heire of the third part of the peny, and not not of the third part of the two pence. For she shall be endowed of the best possession of her husband. Another hath, Kitchin, fol. 209. in these words: where the wise is endowed by the gardian, she shall be attendant to the gardian, and to the heire at his sull age: with whome agreeth Perkins also, in Dower. 424.

Atturney (atturnatus) cometh of the French (tourner. i. vertere) as, tourner son esprit à faire quelque chose, i.animum ad rem aliquam inclinare.) Thence commeth the participle (tourne. i. versus, conversus,) and the Substantine (tour. i. vices, viciffitudo)as, chacun à son tour, i. quilibet sua vice.) It fignifieth in our common lawe, one appointed by another man to do any thing in his steade, as much as (procurator) or (fyndicus) in the civill lawe, West. parte 1. Symsbolayogr. lib. 2. fett. 559.defineth it thus: Atturneys be such perfons, as by the confent, commandement, or requelt, do take heed, see to, and take vpon them the charge of other mens busines in their absence, by whome they are commaunded or requested. And where it seemeth that in auncient time, those of authoritie in Courts, had it in their arbitriment, whether they would fuffer men to appeare, or fue by any other then themselues, as is euident, by Fitz. nas. br. fel. 25. in the writ. Dedimus potestatems de atturnato faciendo, where it is shewed, that men were driven to procure the kings writs or letters patents to appoint Atturneys for them: it is fithence prouided by Statutes, that it should be lawfull fo to do without any fuch circuit, as by the Statute.anno 20. H. z. cap. 10. anno 6. Ed. 1. cap.8. anno 27. einschem. fat. 2. an. 12. Ed. 2. I. anno 15. einsdem cap. vnico.anno 7. Ric. 2. cap. 14. anno 7. H.4. cap. 13. anno 3. H. 5. cap. 2. anno 15. H. 6. cap. 7. & anno 17. H. 7. cap. 2. is to be proved. And you may see great diversitie of writs, in the table of the Regi. origin. wherein the king by his writ commaundeth the Iudges to admit of Atturneys. Wherby there grew at the last fo many vnskilfull Atturneys, and fo many mischieses by them, that prounion for restraining them was requifite. Wherefore anno 4. H.4. cap. 18. it was ordained, that the Inflices should examine them, and displace the vnskilfull. And againe, anno 23. H. 6. cap. 7. that there should be but a certaine number of them in Northfolke and Southfolke. In what cales a man at this day may have an Atturney, and in what not, fee Fitz. vbisupra. Atturney is either generall or speciall: Atturney generall is he, that by generall authoritiess appointed to all our affaires

faires or fuites : as the Atturney generall of the king. pl. cor. fol. 152 which is as much as (Procurator Cafaris) was in the Romane Empire. Atturney general of the Dake, Cromptons Iurifd fol. 105. Atturney speciall or particular is he, that is employed in one or more causes particularly specified. Atturneys generall be made after two forts: either by the kings leters patents before him or the Lord Chancelour, or by our appointment before Iustices in eyre in open court, Glanvile li. II. cap. pri. Britton. cap. 126. whome of this thing you may reademore at large. There be alfo in respect of the divers courts, Atturneys at large, and Atturneys special, belonging to this or that court onely. The name is borrowed of the Normanes, as appeareth by the custumarie, cap. 65. And I find the word (attornati) or as some reade (tornati) in the same signification in the title (de stature gularium) ca. unico. S. Porro in fexto.) where the gloffe faith, that Atturnatidicuntur Procuratores apud actaconstituti. Our old Latine word for this seemeth to be (resporsalis) Bract. lib. 4. cap. 21. 6 lib. 5. parte 2. cap. 8. and so it is in Scotland at this day, but especially for the Atturney of the defendant, as (prolocutor) is for the persewer. M. Skene de verb, hamficatione.

Responsalis, as Sigonius witnesseth, in his sirst booke de rogno Italia, was in auncient time, the title of the Popes ambassadour, pag. 11.

Atturney of the court of mards and Lineries (Atturnatus regis in curia Wardorum et Liberaturaru) is the third officer in that Court. who must be a person learned in the lawes of the land, being named and affigned by the king. At his admission into the office, he taketh an oath before the Master of the said court, well and truly to serue the king, as his Atturney in all courts, for and concerning any mater or cause, that toucheth the possessions and hereditaments limited to the furuey and government of this court, and to procure the kings profite thereof: truly to councell the king, and the Master of the Court, in all things concerning the fame, to the best of his cunning, witte, and power: and with all speed and diligence from time to time at the calling of the Master, to endeuour himself for the hearing and determination indifferently of fuch matters & causes, as depend before the Master:not to take any gift or reward in any mater or cause depending in the court, or else where, wherein the king shall be partie, whereby the king shall be hurt, hindred, or difinherited: to do to his power,

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wit, and cunning, all and cuery thing that appertaineth to his office.

Atturney of the Court of the Duchie of Lancaster, (Atturnatus curia Ducatus Lancastria) is the second officer in that Court, and seemeth, for his skill in law, to be there placed as (assessor) to the Chanceler of that court, being for the most part, some honorable man, and chosen rather for some especiall trust reposed in him to deale between the king and his tenents, then for any great learning, as was vouall with the Emperors of Rome, in the choice of their Magistrates.

Attournment (attornamentum) commeth of the French (courner. i. vertere) and in our common lawe, is an yeelding of the tenent to a new Lord, or acknowledgement of him to be his Lord. For otherwise he that buyeth or obtaineth any lands or tenements of another, which are in the occupation of a third, cannot get possession: yet see the statute, an. 27. H. 8. cap. 16. The words vled in atturnment are fet downe in Litleton. I agree me to the graunt made to you. &c. But the more common atturnment is to fay: Sir, Lattourn to you by force of the fame graunt: or, I become your tenent, &c. or else deliner vnto the grauntee a peny, halfepeny, or farding, by way of at-

cournment, Ligleton lib. 2.cap. At. townment. 10. whome you may reade more at large, and find that his definition proceedeth from more lawe then Logicke: because he setteth downe divers other cases in the same chapter. whereto attournment apportaineth as properly as vnto this. But you may perceive there, that attournment is the transposing of those duties that the tenent ought to his former Lord, vnto another, as to his Lord: and alfo. that attournment is either by word or by act, &c. Alfo actournment is voluntarie, or else compulsorie, by the writ tearmed Per qua seruitia, Owld. nat.br. fol.155 or sometime by distresse. Fitzh. nat. br. fol. 147. Laftly, attournment may be made to the Lord himselfe or to his Steward in Court, Kitchin. fol. 70. And there is attournment in deede, and attournment in lawe. Coke vol. 6.fo. 113.a. Attournment in lawe, is an act, which though it be no expresse attournment, yet in intendment of law is all one.

(Atturnate faciendo vel recipiendo):s a writ which a man oweing fuite to a countie, hundred, weapon take, or other court, and defiring to make an attourney, to appeare for him at the fame court, whome he doubteth whether the Shyreeue or bailiffe will admit or not for his Attourney

there,

there, purchaseth, to commaund him to receive such a man for his attourney, and admit his appearance by him. The forme and other circumstances whereof, see in Fitzh. nat. br. fo 156.

Audiendo & terminando, isa writ, but more properly tearmed a commission, directed to certaine persons, when as any great assembly, insurrectió, or heinous demeanure or trespasse is committed in any place, for the appeasing, and punishment thereof. which you may read at large, in Fuzh.nat.br.fo.110. See also oyer ch terminer.

Andience courte (Curia audientie Cantuariensis) is a court belonging to the Archbishop of Canterburie, of equall authoritie with the Arches court, though inferior both in dignity and antiquitie. The original of this court was, because the Archeb.of Canterbury heard many causes extra judicially at home in his owne palace, in which, before he would finally determine any thing, he did vsually committhem to be discussed by certaine learned men in the civile & canon lawes, whome thereupon be termed his auditors. And fo intime it grew to one especiall man, who at this day is called (Causarum negotioruma audientia Cantuarienhis auditor few officialis. And with this office hath heretofore com-

monly bene lovned the Chancelership of the Archbishop, who medleth not in any point of cotentious iurisdiction, that is, desciding of causes betweene party and party (except fuch as are ventilated pro forma onely, as the confirmation of bishops elections, or fuch like) but onely of office, and especially such as are voluntaria inrisactionis, as the granting of the cultody of the spiritualties, during the vacation of Bishoprickes, Institutions to benefices, dispensing with banes of matrimonie, and fuch like. Butthis is now dftinguished in person from the Audience. Of this Audience court, you may reade more in the booke, intituled De antiquitate ecclasia Brittannice bistoria.

Audsta querela, is a writ, that lieth against him , who having taken the bond called (statute Merchant) of another, and craving or having obteined execution of the same at the Maior & Bayliffes hands, before whome it was entred, at the complaint of the partie who entred the fame, vpon suggestion of some iust cause why execution should not be graunted; as a release, or other exception . This writ is graunted by the Channeler of England, vpon veiwe of the exception suggested, to the Justices of the common banke, or of

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the

the Kings benche, willing them to graunt luminous to the Shyrecue of the countie, where the creditour is, for his appearance at a certain day before them. See more in owld.nat.br.fo. 66. and Enzb.nat.br.fo.102.

Auditour (auditor) commeth of the French (auditeur) and in our lawe, fignifieth an efficer of the king or fome other great perfonage, which yearely by examining the accounts of all ynder officers accountable, maketh vp a generall booke, that sheweth the difference betweene their receipts or burden, and their allowances, commonly called (allocations) : as namely, the auditours of the exchequer, take the accounts of those receivers, which receive the revenewes of the augmentation: as also of the Shyreeues, escheatours, collectours, and customers, and fet them downe and perfect them. Him that will read more of this, I referre to the Statut anno. 23. H. 8.6.33.

Auditours of the Prests, are alfo officers in the exchequer, shat doe take and make up the great accounts of Ireland, Berwick, the mint, & of any mony impressed to any man.

Auditour of the receipts, is an officer of the exchequer, that had leth the Tellers bils, and maketh an entric of them, and gueth to

the Lord Treasurer a certificate of the mony received the weeke before. He maketh also (Debenturs) to every Teller, before they pay any mony, & taketh their accounts. He keepeth the blacke booke of the receipts, and the Treasurers key of the treasure: and seeth every Tellers monies locked up in the new treasury.

Auenture is a mischance, caufing the death of a man without felony: as when he is sodenly drowned, or burnt, by any soden disease falling into the water or fire Britton. ca.7. where you may see, what it different from Misadventure. See Misadventure.

Average (averagium) by M. Skenes opinion (verbo arage) de verborum significatione, commeth of the word (averia.) i, a beaft, and fo consequently signifieth service which the tenent oweth to to the Lord, by horse or carriage of horse. I have heard others probably deriue it from the French (euvrage) or (euvre.i.opus.) It feemeth with vs to have two diuers fignifications; for the first, Rastall. titulo Exposition of words. maketh mention of the Kings averages, which I take to be the kings cariages by horse or cart. Then.anno.32. H. 8.ca. 14. and anno.1. Iscobi, ca. 32. it is vsed for a certaine contribution that merchants and others doe every man

ding freely by charter in this fort, cannot be impleaded, out of the same maner: and if they be. they may abate the writ, by pleading their tenure before or after answer made. Secondly, they befree of tolle for al things concerning their sustenace & husbadry. Thirdly, they may not be epaneled vpo any equest. Terms of the law, but more at large by Fitzh. wat. br. fo. 14. d. whome reade, as also fo. 128.a. etc. And as it appeareth by him. eodem.fo. 4 B.C. these tenents held by the fervice of plowing the kings land, by plashing his hedges, or by fuche like, toward the maintenance of the kings household; in which regard they had such liberties given them, wherin, to avoide disturbance, they may have writs to fuch as take the duties of tolle in any marketor feire; as likewise for immunitye of portage, passage, & such like. Estzh.nat.br.f. 228. A. B. C. D. by which author it also appeareth, that no lands be to be accompted auncient demeasn, but such as are holden in focage.fo.13.D. et. 14. B.C. See Monstraverunt, and Firtzb.fo.14. and Dessendo quie-1mm de telonio. fo. 226. Fleta maketh three tenures holding of the crowne: auncient deme asn, by escheate, & by purchase. In ca. 20. See Demaine.

Amerient Demesu avere (anti-

quum domineum aretro)is that aucient demesn, which the king graunteth ouer to hold of a ma-

ner. Kitchin. fo. 67.b.

Avore (advocatus) see Advove. Braton faith that Avone is he, to whome the right of advowzen of any Church appertaineth, fo that he may present thereunto in his owne name, and is called avorefor a difference from those, that sometime present in another mans name:as a gardia that presenteth in the name of his warde, and for a difference also from them, which have the lands whereunto an advowzen appertaineth, but onely for tearine of their liues, or of yeares, or by intrusion or desseifin.ca.92.

Avonrie. Sce Advonrie.

Avoir de pois, is in true French (avoir du poix. i.habere pondus, aut instiesse ponderis) It significat in our common lawe, two things: first, a kinde of weight divers from that, which is called Troy weight conteining but 12.ounces to the pound, where as this conteineth fixteene. And in this respect it may be probably conicctured, that it is so called, because it is of more weight then the other. Then also it fignifieth fuch merchandize, as are waied by this weight, and not by Troy weight as in the statute of Tork. anno 9. Ed. 3. in process. anno. 27. Ed. 3. Statuto 2 ca. 10. at anno.2

Rich ...

Rich. 2. cap. I. Sce Weights.

Auxilium ad filium militem faciendum, & filium maritandam, is a writ directed to the Shyreeue of euery countie, where the king or other lord hath any tenents, to leuye of them reasonable ayde toward the knighting of his son, and the mariage of his daughter. See Ayde, and Fitz. nat. br. fol. 82.

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Acheler (Bachalaureus) 60-Dmeth of the French (Bachalier. i. tyro) and thereupon I thinke those that be called Baenelers of the Companies in London, be such of each company, as be springing toward the estate of those that be imployed in Coucel, but as yet are inferiors. For every copany of the twelve, confisteth of a Master, two Wardens, the Liuerie, which are affistants in matter of Councell, or at the least, such as the Affistants be chosen out of, and the Bachelers, which are yet but in expe-Stance of dignitie among them, and have their function onely in attendance vpon the Master and Wardens. I have read in an old monument, this word Bacheler, attributed to the Lord Admirall of England, if he be vnder a Baron, in French words to this effect: and it is to weet, that when the Admirall rideth to affemble a shippe of warre, or other, for the businesse and affaires of the Realme, if he be a Bacheler, he shall take for his day wages, 4. E. sterling: if he be an Earle or Baron, he shall take wages after the rate of his estate and degree. This word is yied, anno 13. R. 2. flat. 2. cap.i. & fignifieth as much as Bacheler Knight doth anno 3. Ed. 4. cap. s.that is, a fimple Knight, not a Knight baneret. See Banaret. Touching the farder etymologie of this word, Bachalarii, te. ste Renaro, abacillo nominati sunt. quia primi studii authoritatem, que per exhibitionem baculi concedebatur, iam consecutifuissent. Vt fue rit velut quoddam mancipationis fignum in huinfmods aliquod studium baculi traditio. Alciat writeth the word (baccalaurei, eafque dicit visos à bacca lassrea nomen sumpsisse in 1. cui pracipua 57. T. de verbo. signifisa.

Backberond.is a Saxon word. and almost English at this day, signifying as much asbearing vpon the backe, or about a mar. Braston vieth it for a signe or curvinstance of manifest these, which the Civilians call. furum manifestum. For dividing (furum, in manifestum, in manifestum, in manifestum, in manifestum, in this sort: Furtum vero manifestum) in this sort: Furtum vero manifestum de aliquo latrocimo: sc. hand habend & backberend, & insecutus suera per aliquem cuius res alla suera la, s

tratt.

in the second part of his forest lawes, noteth it for one of the 4. circumstances or cases, wherein a Forester may arrest the bodie of an offender against vertor venison in the Forest. For by the assiste of the Forest of Lancaster (saith he) taken with the maner is, when one is found in the kings Forest in any of these foure degrees: se. stable stand, dogge drawe, backe beare, and bloudie hand. In which place you may find all these interpreted.

Badger, cometh of the French (bagage, i. sarcina, impedimentu,) It signifieth with vs, one that buyeth corne or victuals in one place, and carieth it into another. See Cromptons Iustice of

peace, fol. 69.6 70.

Baye or penne is a pond head made up of a great heith, to keep in a great quantitie or store of water, so that the wheeles of the fornace or hammer belonging to an Iron mill, may stand under them, and be driven by the water comming out of them by a passage or stud-gate (called the pensionche) and falling upon the said wheeles. This word is mentioned in the statute, anno 27.El. cap. 19.

Bayle (Ballium, plevina, manucaptio) commeth of the French (bailler, i. attribuere, tradere, tribuere.) It is vied in our common

lawe, properly for the freeing or fetting at liberty of one arrested or imprisoned vpon action either civill or criminall, under surerie taken for his apparence at a day and place certainely affigued. Bracton lib. 2. tract. 2. cap. 8. num. 8. 6 9. The reason why it is called Barle, is, because by this meanes the party restrained, is delivered into the hands of those that bind themselves for his forth-comming. There is both common and speciall baile. Comon baile, is in actions of small prejudice, or flight proofe: being called common, because any furcties in that case are taken: whereas vpon causes of greater weight or apparent specialtie, speciall baile or suretie must bee taken: as subsidie men at the least, and they according to the value. Master Manwood in his first part of Forest lawes, pag. 167 maketh a great difference betweene bayle and mainprise, in these words: and note that there is a great diversitie betweene bayle and mainprise. For he that is mainprised, is alwaies said to be at large, and to go at his own libertie out of ward, after that he is let to mainprise, vitill the day of his appearance, by reason of the faid common fummons or otherwise. But otherwise it is. where a man is let to bayle, by foure or two men, by the Lord chiefe H 2

chiefe Iustice in eyre of the Forest, vntill a certaine day. For there he is alwaies accompted by the lawe to be in their ward and custodie for the time. And they may, if they wil keepe him in ward or in prison at that time, or otherwise at their will. So that he which is fo bailed, shall not be faid, by the lawe, to be at large, or at his owne libertie. See Lamberds eirenarcha, lib. 3. cap. 2. pig. 330. Bayle is also a certaine limit within the forest, accordingly as the Forest is divided into the charges of feuerall Foresters. Crompton in the oath of the bow-bearer, fall 201. See Maynprife.

Baylife (ballious) commech of the French (bailif. i. diacotes, nomarcha, trafectus Provincia) and as the name, fo the office it felfe, in auncient time, was very aunfwerable to that of France and Normandie: for as in France there be fixteene Parlaments, [Lupanus de Magistratibus Francorum, lib. 2. cap. Parlamentum) which be high courts, whence lyeth no appeale: & within the precincts of those severall parts of that kingdome, that belong to each Parlament, there be several prouinces, vnto which, within themfelues, iustice is ministred by certaine officers called bayliffes: fo in Eng'and we see many severally counties or shires, within the

which justice harh hene minifired to the inhabitants of each counsie, by the officer whome we now call Shyreene or Vicount (one name descending fro the Soxons, the other from the Normans.) And though I cannot expressely proue, that this Shyreeue was quer called a bailiffe. yet is it probable, that that was one of his names likewife . because the countie is called many times (balliva) that is a Bayliwicke: as namely, in the returne of a writ with (non est innentus.) he writeth thus: (A. S. infra foriptus, non est inventus in balliva mea. post receptionem huine brevis) Kitchin returna brevium. fol. 258. and againe in Bracton, lib. 3 traft. 2. cap. 22. num. 2. and anno 5. E. liz. cap. 23. and anno 14. Ed. 3. Stat. 1. cap. 6. And I thinke the word (bailife) vsed cap. 28. of Magna charta, comprifeth as well Shyrcenes, as bailiffes of hundreds: as also anno 14. Ed. 3. fat. 1. eap. 9. But sthe realme is divided into Counties : fo euery Countie is againe divided into hundreds, within the which it is manifest, that in auncient times, the kings fubicets had ittice ministred vnto them, by the seuerall officers of euery hundred, which were called bailifies, as those officers were and are in Fraunce and Normande, being chiefe officers of iuffice within

euery Prouince. Lupanus de Magistratibus Francorum, lib. 2. cap. Balivi. and the grand custumary of Normandie, cap. 1. And that this is true among many others, I bring Bratton for my witnes, li. 2. traft. 2. cap. 34. n. 5. where it appeareth that buliffes of hundreds might hold plee of appeale and approvers. But fithence that time, these hundred courts (certain franchifes excepted) are by the statute anno 14. Ed. 3. stat. 1. cap. 9. swalowed into the Countie courts, as you may reade in countie and hundred. And the Bailiffes name & office is growne into fuch contempt, at the least, the ebailiffes of hundreds, that they are now but bare messengers and mandataries within their liberties to ferue writs, and fuch like base offices: their office confitting in 3. points onely, which fee in Crem. prons Iuflice of peace, fol. 49. a. Yet is the name still in good efleeme some other way. For the chiefe Magistrates in divers townes corporate be called Bailiftes, as in Ipfenitch, Yarmouth, Colchester, and fuch like. And againe, there be certaine, to whom the kings castels be committed, which are called Bailifs, as the Bailiffe of Dover castell.

These ordinary bayliffes are of two sorts: baylifs errant, and baylifs of franchises. Baylifes er-

rant (ballivi itinerantes) be those, which the Shyreeue maketh, and appointeth to goe hither & thither in the countie to ferue writs. to fummon the countie, fessions, affifes, and fuch like. Baylife of franchises (ballivi franchesiarum aut libertaium) be those that are appointed by eueric lord within his libertie, to doe such offices within his precincles as the baylife errant doth at large in the countie. Of these read S. Thomas Smith. de repub. Anglo.li. 2. ca. 16. There be also baylifes of the sotell. Manwood parte 1. pa. 113. There be likewise baylifes of husbandrie, belonging to private men of great substance, who seeme to be so called, bycause they dispese of the vnder servants every man to his labour and taske, check them for misdoing their buisenes, gether the profits of their lord and mafler, and deliner an accompt for the fame at the yeares end, or otherwife as it shallbe called for. The word baylife or ballow, is by Rebuffus derined from (Baal.i. dominus, quia ballivi dominas tur (uis subdinis, anasieorum mag strict domini Rebuf in constitut regins. de senten, executionis. art. 7. glif.1. The office or dutie of a bayliffe of a maner or household (which in anneiet time scemeth to haue beene all one) Fleta well deferibeth, li. 2.ca. 72. & 73. This word

is also vsed in the canon lawe.
ea. delecto. de sentent. excom. in sexto. & ca. pri. de pænis in clement.
wher the glossographer saith, it is
a French word, signifung as much
as (prapositus) & (balia) or (balivatus) is vsed among our later interpreters of the civile & canon
law, sor provincia, as ballius heere
in England, is vsed for a countie
or shire.

Balkers See Conders.

Ballivo amovedo, is a writ to remooue a baylife out of his office, for want of sufficient living with in his bayliwick. Reg. orig. f. 178.

Bane, seemeth to signific the destruction or overthrow of any thing. Braston. is. 2. trasta. 2. ca. 1.

nu. 1. as he which is the cause of of another mans drowning, is said there to be la bane. i. male fattor. In that Braston, in the place aforesaid, prefixeth a French article to this word, it should seeme by his opinion, that the word is French, but I finde it not in any French writer that ever I read.

Baneret (banerettu) in M. Skenes opinion, seemeth to be compounded of (baner) and (rent) whome reade more at large of this, verbo. Baneret. de verbo. signibut our M. Camden, rather draweth the word from the German (bannerheires. Brittan.pa. 109. in meo libro. S. Thomas Smith de repub. Anglo. li. 1.ca. 18. saith, that baneret is a Knight made in the

field, with the ceremonie of curting of the point of his standard. and making it, as it were, a baner. And they being before bachelers, are now of greater degree . allowed to display their armes in a baner in the Kings armie, as barons doe. M. Camden vbi supra, hath these words of this matter, Baneretti, cum vafal. lorum nomen sams desierat, a baronibus (ecundi erant: quibus indicum nomen a vexillo. Concessum iliserat militaris virtutis ergo, quadrato vexillo (perinde ac barones)uti.unde & equites vexillarii a nonnullis vocantur, Grc. Ofcreating a knight baneret, you may read farder, in M. Segar. Norrey his booke.li. 2. ca. 10. That they be next to barons in dignitie, it appeareth by the flatut.an. 14.R.2.c.11. & by anno.5.R.2.ftat.2.ca.4. it may be probably coniectured, that they were aunciently called by fummons to the court of parlament and anno.13.R.2. fat. 2.ca.1. We finde, that a baneret for praying a pardon for a murderer, contrarie to that flatut, is subject to all one punishment with a baron. Iohan: Gregorius Tholosamus.li.6.sa. 10. sui syntagmatis.nu.9. hath thele words: In Gallia funt dua fecies affines nobilium & fendorum, quas dicunt de benneretz & barons. Benneretus iure sua dionitatis, antequam talis dici mereutur nobilis ese debet genere, in quarto gradu, poffi-

dens in ditione decem scutarios bachalarios armoru: id eft. decem va-Callos habens sufficiens patrimonium, and possit secum ducere quatuor aut quinque nobiles comites continuos, cum equitibus duodecim aut sexdecins . Fit autem Benneretus , cum princeps buinsmodi persona concedit vexilli ius, & ex vexillo peditum in acie, vel extra, die solenni, sacris peractis, admit acumina. Vocant la queve de pennon, sit q labarum, idest, equitum vexillum vocant cornette eumg, equitem facit, fiam nonest. Quod si dittor his fiat benneretus, co habet unam benneretam, aut sex equites bachalarios, qui tossideant singuli in censum sexcentas libras ex eius ditione seu feudo, tunc possunt ex licentia principis, baronis nomen libi adsciscere.

Bans (bannus vel bannum) fignifieth a publike notice given of any thing. The word is ordinarie among the feudists, and growne from them to other yses: as to that which we heere in England calla proclamation, whereby any thing is publikely commaunded or forbidden. Vincentius de Franchis. descis, 21. & 360. Hotoman verbo bannus, in verbis fendalibus saith that there is both (bamus) and (bannum) and that they fignifie two divers things. His words are these: Bannus sine bannum duo significat: Edictu, qua dio vasalli equis armisq; instructi, ad comitatum ade so debent: & sanctione,

hoc eft multiams edito non paremis. which he confirmeth by divers authorities. This word (bans) we vicheere in England, especially in the publishing of matrimoniall contracts in the church, before mariage, to the end that if any man can fay against the intetion of the parties, either in refpect of kindred or otherwise, they may take their exception in time. And in the canon lawe, Banna, funt proclamationes sponsies sponsa in ecclesus fiere solita ca. 27. extra de sonsal. & ca.v/t.qui matrimonium.accus.pos.co ca.vlt de clan. despon (Yet our word (banning) feemeth to come thence, being nothing but an exclamation of another. Onely Bracton, once maketh mention of bannus regis, for a proclamation, or filence made by the crier, before the congresse of the champions in a combate. li. 2 tracta. 2. ca. 21.

Bank (bancus) commeth of the French (banque.i. mensa) In our common lawe, it is most viually taken for a seate or bench of indgement, as bank leroy the kings bench. bank de commo plees: the bench of comon plees, or the common bench. Kutchin. fo. 102. called also in latine bancus regius, & bancus consmunium placitorum. Crompt. in 16.67.691. Camden in his Britannia.pa. 112.6113.in meo. calleth them also bancum regium & bancum communem.

See frank bank.

Banbywot (alias banbrowte.)c6meth of the french (banque route) and (faire banqueroute) with the French is as much as (foro cedere, folum vetere) with the Romanes. The composition of the French word I take to be this (banque. i. menfa & (route i.vestigium) metaphorically taken from the figne left in the earth, of a table once fastened vnto it. & now taken away. So that the original feemeh to have sprung fro those Romain (menfary) which (as appeareth by many wrighters) had their (tabernas & mensas)in certaine publique places, whereof, when they were disposed to flie, & deceiue menthat had put them in trust with their monies, they left but the fignes or carcafes behinde them. I know that others of good learning (and M. Skene for one) bring this (a bancorupto) but the French word worketh in me this other opinion, for after their sence, the French should rather be banque rempu. Bankrupt with vs fignifieth him or his act, that having gotton other mens goods into his hands, hideth him selfe in places vnknowne, or in his owne prinate house, not minding to pay or restore to his creditours their duties. anno. 34. H. 8.ca.4. where the french phrase (faire banque route) is translated to the word, to make bankrupt. A bankrupt anno. 1. Iacobi.ca. 15. is thus described: All and every fuch person and persons, vling, or that shall viethe trade of merchandife, by way of bargaining, exchange, bartrey, cheuisance, or otherwise in groffe, or by seeking his her, or their trade of lining by buying and felling, and being a subject borne of this Realme.or any the kings dominions, or denizen, who at any time fithence the first day of this present parlament, or at any time hereafter, shall depart the Realme, or begin to keepe his or her house or houses, or otherwise to absent him or her selfe, or take sanctuarie, or fuffer him or her felfe willingly to be arrested for any debt or other thing, not growne or due for mony delinered, wares fould. or any other iust or lawful cause, or good confideration or purposes, or hathor will suffer him or her selfe to be outlawed, or yeld him or her selfe to prison, or willingly or fraudulently hath or shall procure him or her selse to be arrested, or his or her goods, money, or chatels to be attached or sequestred, or depart from his or her dwelling house, or make, or cause to be made any fraudulent graut or conveyance of his, her, or their lands, tenements, goods or chatels, to the intentor whereby his, her, or their creditours being subicets borne, 252fore-

foresaide, shall or may be defeated or delayed for the recouery of their iust and true dept: or being arrrelted for debt, shall after his or her arrest, lye in prison fixe monethes or more, y pon that arrest, or any other arrest or detention in prison for debt, and lye in prison fixe monethes youn fuch arrest or detention, shall be accompted and adjudged a bankrupt to all intents and purpoles.

Banishment (exilium, abiuratio) commeth of the French (bannif-(ement) and hath a figuification knowne to every man. But there be two kinds of banishments in England: one voluntarie and vpo oath, whereof you may reade (Abiuration:) the other vpon copulsion for lome offence or crime:as if a lay-man fuccor him that, having taken sanctuarie for an offence, obstinately refuscth to abiure the realme, he shall loofe his life and member: if a Clerke do fo, he shall be banished, Stawnf pl. cor. fol. 117. This punishment is also of our moderne Civilians called (bannimetum) which was aunciently tearined (deportatio) if it were perpetuall, or (relegatio in insulam,) if for a time. Vincentius de Franchis. Petrus de Belluga in suo speculo fol. 125. num. 4.

Barbaries (Oxycantha) is a thornie shrub knowne to most

men to beare a bery or fruite of asharpe taste. These beries (as also the leaves of the said tree) be medicinable, as Gerard in his herball sheweth, lib. z. cap. 21. You find them mentioned 2mong drugs to be garbled, anno 1. Iacob. cap. 19.

Bard, alias, Beard. See Clack.

Bargaine and sale, as it seemeth by West . part. 1. Symb. lib. 2. fect. 436. is properly a contract made of maners, lands, tenements, hereditaments, and other things, transferring the propertie thereof from the bargainer to the bargance. But the author of the new termes of lawe addeth, that it ought to be for money: faying farder, that this is a good contract for land, &c. and that fee-simple passeth thereby, though it be not faid in the deed (To have and to hold the land to him and to his heyres,) and though there be no liuerie and seifin made by the seller, so it be by deed indented, sealed, and enrolled, either in the Countie where the land lyeth, or within one of the kings courts of Records at Westminster, within fixe moneths after the date of the deed indented, anno 27. H.8. cap. 16.

Barkarie (Barkaria) is a heath house. New booke of Entries, titulo. Affise cerp. polit. 2. Some

eall it a Tanne house.

Baron (Baro) is a French word. and hath divers fignifications herein England. First, it is taken for a degree of Nobilitie next vnto a Vicount. Bracton. lib. I. cap. 8. num. 4. where he faith, they be called Barones, quali robur belli. And in this fignification it is borowed from other nations. with whom Baronie be as much as Provincia. Petrus Belluga in speculo princip fol. 119. So Barones be such, as haue the gouernment of Prouinces as their fee holden of the king: fome having greater, fome leffer authoritie within their territories, as appeareth by Vincentius de Franchis in divers of his desceisions, and others. Yet it may probably be thought, that of old times here in England all they were called Barons that had fuch Seigniories, as we now call court-barons, as they be at this day called Seigneurs in France, that have any fuch manor or lordship. Yea, I have heard by men very learned in our Antiquities, that neere ofter the conquest, all such came to the Parlament, and fare as Nobles in the upper house. But when by experience it appeared, that the Parlament was too much pestered with fuch multitudes : it grew to a custome, that none shold come but such, as the king, for their extraordinarie wiledome or qualitie, thought good to call by writ;

which writ ranne (bac vice tantum.) After that againe men fee. ing this citate of Nobilitie to be but casuall, and to depend meerly voon the Princes pleasure. they fought amore certain hold, and obtained of the King, leters patents of this dignitie to them and their heyres male. And thefe were called Barons by leters patents or by creation: whose posterity, be now by inheritance and true descent of Nobilitie, those Barons that be called Lords of the Parlament; of which kind the king may create more at his pleafure. It is thought neucrthelesse, that there are yet Barons by writ, as wel as Barons by leters patents, and that they may be difcerned by their titles: because the Barons by writ are those, that to the title of Lord haue their owne furnames annexed, as Compton, North, Norice, &c. whereas the Barons by leters patents, are named by their Baronies. Thefe Barons which were first by writ, may now iustly also be called Barons by prescription, for that they have continued Barons in themselves and their auncestors time, beyond the memorie of man. The originall of Barons by writ Mafter Camden in his Britannia pag. 109. in meo. referreth to Henry the third: Barons by leters patents or cieation, (as I have heard among

our Antiquaries) were first created about the dayes of Herry the fixth: the maner of whose creation reade in Master Stones Annales, pag. 1121. Of all thefe you may also reade Master Ferus glorie of Generofitie, pa. 125 & 126. And fee M. Skene de ver. fignif. verb. Baro. with Sir Thomas Smith, lib. I. de rep. Anglor. cap. 17. who faith, that none in England is created Baron, except he can dispend a thousand pound by yeare, or a thousand markes at the least. To these former, Mafter Seager (by office) Norrey, lib. 4. cap. 13. of Honour civill and militarie, addeth athird kind of Baron, calling them barons by tenure, and those be the Bishops of the land: all which by vertue of baronries annexed to their bishoprickes, have alwaies had place in the vpper house of Parlament, and are tearmed by the name of Lords spirituall.

Baron in the next fignificatio is an Officer: as barons of the Exchequer be to the king: of which the principall is called Lord chiefe Baron (capitalis Baro) and the three other (for fo many there be) are his affiftants in causes of inflice, betweene the king and his subjects, touching causes appertaining to the Exchequer. Car star

The Lord chiefe Baron at this day, is the chiefe Iudge of the

court, and in matter of lawe, information, and plea, answereth the barre, and giveth order for iudgment thereuppon. He alone in the terme time doth fit vpon Nisi prius, that come out of the Kings Remembrancers office, or out of the office of the clerke of of the please, which cannot be dispatched in the mornings for want of time . He taketh recognisances for the Kings debts, for appearances, and observing of orders. He taketh the presentation of all the officers in court vnder himselfe, and of the Mayor of London, and feeth the Kings Remembrancer to give them their oathes. He taketh the declaration of certaine receivers accompts of the lands of the late augmentation, made before him by the Auditors of the shires. He giueth the two parcel makers places by vertue of his office.

The second Baron in the absence of the Lord chiefe baron. answereth the barre in matters aforesaid: he also taketh recognifances for the kings debts, apparences, and obseruing of orders. He giueth yearely the oath to the late Major and escheatour of London for the true accompt of the profits of his office. He taketh a declaration of certaine receyuers accompts. He also examineth the letters and summes of fuch Shyreeues foraine acof Escheatours and Collectours of Subsidies and Fifteens, as are brought vnto him by the auditors of the Court.

The third Baron, in the ablece of the other two, answereth the barre in matters aforelaide, he also taketh recognisances, as aforesaide. He giveth yerely the oath of the late Mayor and gawger of London for his true accopting. He also taketh a declaration of certaine receivers accompts; and examine the leters and sumes of such of the former accountants, as are brought ynto him.

The fourth barons is alwaics a coursetour of the court, and hath bene chosen of some one of the clerks in the remembrancers offices, or of the clerke of the pipes office. He at the daies of prefixion, taketh oth of al high shyrecus and their undershyreeues, and of all escheatours, baylifs, and other accountats, for their true accounting. He taketh the oath of al collectours, controllers, furueyours and ferchers of the custome houfes, that they have made true entrances in their bookes. He apposethall shyreeues you their sumons of the pipe in open court. Heinformeth the rest of the Barons, of the course of the court in any mater that concerneth the kings prerogatiue. He likewife, as the other Barons, taketh the declaration of certaine receivers accompts: and examineth the leters and fummes of such of the former accountants, as are brought ynto him.

These barons of the exchequer areauncient officers : for I finde them named, mestm. 2.ca. 11.anno. 12. Ed. 1. and they be called barons, because barons of the realme were wont to be employed in that office. Fleta.li. 2.ca. 24.S. Thomas Smuh faith of them, that their office is to looke to the accompts of the Prince: and to that end they have auditors vnder them : as also to descide all causes, appertaining to the Kings profits, comming into the exchequer by any meanes. This is in part alto proued, by the statut anno. 20. Ed. 3. ca. 2. 6. anno. 27.6iuschem. stat. 2. ca. 18. eg anno. 5. R. 2. Stat. 1.ca. 9. 6 12.6 anno. 14. einfd ca. 11. And hereupon they be of late, men learned in the common lawe of the realme: wheras in auncient times, they were others: viz maiores es discretiores in regno, sue de clero essent, sue de curia. Ockam in his lucubrations de fisciregy ratione. Horn in his mirrour of Iustices saieth, that barons were wont to be two, and they Knights. ca. De la place del Eschequer.

Then be there in this fignification, Barons of the Cinque portes. anno. 31. Ed. 3. stat. 2.ca. 2. et anno. 3 3. H 8. ca. 10, which are two of enery of the seuen towns, Hastings, Winchelsey, Ry, Rumney, Huthe, Doner, & Sandwiche, that have places in the lower house of Parlament. Cromptons inrisel, so. 28. Baron in the the third signification, is vsed for the husband in relation to his wise: which is so ordinary in all our lawe writers, that wright in french, as it were superfluous to consistence it by any one.

Baronet. I reade this word, announced it faifely printed for Baneret, or els to fignific all one with it.

Baronye (baronia, baronagiums) is the tee of a baron. In which accompt are not only the fees of temporall Barons, but of Bishops also : who have two respects: one, as they are spirituall men, without possessions, as was the tribe of Levy among the Israelites, being susteined by the only first frutes and tenthes of theother tribes. Ione.ca. 13. versue. 14. The other respect they haue, groweth from the bountie of our english Kings, whereby they have baronies at the leaft, & are thereby Barons or Lords of the Parlament. This baronie (as Bracton faith, li. 2. ca. 24. is a right indivifible: and therefore if an inheritance be to be divided among coparceners: though fome capitall messuages may be

divided: yet, si capitale messagium sit caput Comitatus, vel caput Baronia, he saith they may not be parcelled, The reason is, ne sic caput per plures particul as dividatur, & plura iura comitatuum & baroniarum deveniant adnibilum; per quod desiciat Regnum, quod ex Comitatibus & Baronys dicitur esse constitutum.

Barre (barra) commeth of the French (barre) or barrsere (i. repagalum, obex, vectis) It is vied in our common law, for a peremptory exception against a demand or plaint; and is by the author of the Tennes of law, defined to be a plee brought by the defendant in an action, that destroicth the action of the plaintiffe for euer. It is divided into a barre to commonintent, and a barre speciall. Abarre to a common intendment, is an ordinarie or generall barre, that ordinarily defableth the declaration or plee of the plaintiffe:a barre speciall is that, which is more then ordinarie,& falleth out in the case in hand or question, vpon some speciall circumstanceof the fact. Plomden. casu Colthirst. fo. 26.a.b. For exaple, an executor being fued for his testators debt, pleadeth that he had no goods left in his hands, at the day when the writ was purchased or taken out against him. This is a good barre to common intendment, or (tri-

1 3

ma facie) But yet the case may so fall out, that more goods might come to his hands fithence that rime: which if the plaintiffe can shew by way of replication, then excep the haue a more especiall plee or barre to alleadge, he is to be condemned in the action. See also Plowden in the case afore named.fo.28.a.b.and Brooke. titulo. Barre. nu. 101. & Kitchin. fo. 215. Barre also in the same fignification, is devided into barre materiall, and barre at large. Kitchin. fo. 68. A barre materiall (as it feemeth) may otherwise be called a barre speciall: as when one in the stoppe of the plaintiffes action, pleadeth some particular mater, as a descent from him that was the vndoubted owner. a feefment made by the auncester of the plaintiffe, or such like. A barre at large is, when the tenent or defendant by way of exception, doth not traverse the plaintifes title by pleading not quiltie, nor confesse and avoid it, but onely maketh to himselfe a title in his barre. As if in an Affise of novel diffeisin, the tenent pleade a feofment of a straunger voto him, and gives but a colour onely to the plaintiffe. Of this there is an apt example to be found.5. H.7. fo. 29.

Barre, is also in regarde of the effect, divided into barre perpenual & barre pro tempore. Perpetu-

all is that, which overthroweth the actio for euer. Barre pro tem. pore is that, which is good for the present, and may faile heereafter:looke an example or two in Broke titulo. Barre. nu. 23. where he faith, that to plead plene administrant)is good, vntill it may appeare, that more goods come to the executors hands afterward, which also holdeth for an heire, that in an action of his auncesters debt pleadeth (rien per dis. cet.) This word is also vsed for a materiall bar:as the place where Sergeants or Coucelers stand to pleade causes in courte, or prifoners to aunswere to their endictments. Of which our comon lawyers, that be lyceced to plead, in other contries called licentiati) are termed barrifters. anno. 24. H. 8.ca. 24. are released to the

Barrator (barectator) commen from the French (barat. i. astutia) and is neere the French it felfein fignificatio. For (barateur) in that tong betokneth a deceiver:and barator in our common law,isa common wrangler, that fetteth men at ods, and is himselfe never quiet, but at brawle with one of other . To this effect you may read M. Lamberds eirenarcha.p. 342. who faith likewife, that barettor (for so he writteh is) may feeme to come from the latine (baratro) or (balatro) that is, a vic knaue or vnthrift, and (by a me-

caphor) a fpor in a comon wealth Sec. the statute of cham perty. an. 22. Ed. I. fat. 1. ca. unico and West. 1.ca. 3 2.anno, 3. Ed.i. M. Skene de verb. fignif. verbo. barratre. faith that barratours be Symonitis called of the Italian word (barraaria) fignifying corruption or briberie in a ludge giuing a alse sentence for mony: whome ou may read more at large: as lo Hortensus Cavalcanus, in his ractar de brachio regio parte. 5.nu. 6. whose words are: Barataria erodicitur, quando Index aliquid tit indebitum, ve institiam faciat. Tho also nu. 195. partis 5. faith ins:barraterii appellatur, qui pratoum nim's frequentat. And in anoer place of the same worke. Batria dicitur, quia fit quoddam bartrum il commutatio pecunis cum Airia, &c. See also Agidins offices in practica criminali. titulo e officialibus correspt. &c.nu. 2. & Baratariam committunt, Indices, i insticia auro vendunt. Paris Puola.de syndicatu.verbo Barataria... 1.217

Barre fee, is a fee of 20 that very prisoner acquired of feloie payoth to the gaoler. Crompt.

aftice of peace. fo. 158.b.

Barrel, is a measure of wine, yle, &c.conteining the 8. parte a tonne, the 4. of a pipe, and he second of a hogsehead, that 31.gallons and a halfe. anno. 1.

not to conteine any certaine quantitie, but differeth according to the liquor, for a barrell of beere conteineth 36. gallous, the Kilderkin, 18. and the firkin, 9.a barrell of ale 23. gallous the kilderkin 16. and the firkin. 8. gallons. anno. 23. H.8 ca.4.

Barriers, commeth of the French (barres) and signification with vs that which the French men call (sen debarres.i. palastrā.) a martial sport or exercise of mē, armed and sighting together with short swords, within certain limits or lists, whereby they are severed from the beholders.

Barter, way seeme to come of the French (barater.i. circumvenire.) It signification our statutes, exchange of wares with wares. an. t.R.3.ca.9. & so bartry the substantine annoting Eliza ca.7. The reason may be, because they that choppe and change in this manner, doe what they can for the most part, one to over-reach the other. See barratour.

Base estate, is in true French (basestat) It signifieth in our comon law, that estate which hase tenents have in their lands. Base tenents be they (as Malamberd faith in his explication of Saxówords verbo Pagamus, which do to their lords villeinous service. The author of the termes of law in his Tractat of old termes, saith that to hold in see base, is to hold at

67

the will of the lord. Kitchin. fo. 41. seemeth to make base tenure and franck to be contraries: where it appeareth, that he putteth copy holders in the number of base tenents. And out of these, I thinke, that it may be probably coniectured that everie base renent holdeth at the will of the lord bur vet, that there is a difference betweene a base estate, and and villenage, which Fitzh in his nat.br.fo.12.B.C.scemeth to cofound. For the above named author of the termes of law faith in the place before cited, that to hold in pure villenage, is to doc all that the lord will commaund him. So that if a copie holder haue but base estate, he not holding by the performance of everie commandement of his lord, cannot be saide to hold in villenage. Whether it may be faid, that copy holders, be by custome and continuace of time, growne out of that extreame servitude, wherein they were first created, I leave to others of better judgement: but Fath. loco citato faith, tenure by copie is a terme but lately invented. Indiana demand

Base courte, is any court that is not of record, as the court baron. Of this read Kitchin.f. 95.96.&c.

Base see, Scebase estate.

Baselard (basterdus) in the status. anno. 12. R. 2. ca 6. signifieth a weapon, which M. Speight in his exposition vpon Chawcer, calleth pugionem vel sicam.

Bastard (bastardus) See Bastardy, and See Skeene de verbo signif.

verbo Bastardus.

Bastardy (bastardia) commeth of the French (bastard. i. nothus) Cassanaus de confuets. Burg.pa.1116. faith (baftard) and (filius natura. lis) be all one . Bastardy in our common law, signifieth a desect of birth, objected to one begotcen out of wedlock. Bract. le. ca. 19.per totum. How battardie is to be produed or to be inquired into, if it be pleaded, see Rastalls booke of Entrile.tit. Bastardie fo. 104. Kitchin. fo. 64. maketh mention of bastardie speciall, and bastardie generall. The difference of which is , that baftardie generall is a certificate from the Bishop of the dioces to the Kings Iustices, after iust enquiry made, that the party inquired of is a bastard or not abastard ypon some question of inheritance. Baffardy speciall, is a fuite commenced in the Kings court, against him that calleth another baftard: so termed (as it scemeth) because bastardy is the principall and especiall case in triall, and no inheritance contended for. And by this it appeareth, that in both these significations, bastardy is rather taken for an examination or triall, whether a mans birth be defectine or illegitimat, then

it selfe. See Broke.titulo. Bastardy. n.29. and Dotter Ridlies booke.

pa.203.204.

Baston, is infrench a staffe, club, or coulestaffe. It significate in the statuts of our realime, one of the warden of the sleets his setuants or efficers, that attendeth the Kings court with a red staffe, for the taking of such to warde, as be committed by the court. So it is vsed. anno 1. R. 2. ca. 12. anno 5. Eliz. ca. 22.

Batable ground, seemeth to be the ground in question heereto-fore, whether it beloged to England or Scotland, lying betweene both the kingdomes. anno. 23. H. 8.ca. 16.as if we should say debatable ground. For by that name. M. Skene. de verbo. sign. verbo Plegins. calleth ground, that is in controverse betweene two.

Battell(duellum) commeth of the French (bataille.i. bellum, pra-lium) and fignifieth in our comon lawe, a triall by combate. The maner wherof becauseit is long, and full of ceremonies, I doe for the better and more full vn-derstanding of it, referre you to Glanvile, lib. 2. cap. 3.4.5. to Bra-lon, lib. 3. trast 2 cap. 21. fol. 140 to Britton, cap. 22. and to S. Thomas Smith de repub. Anglorum, li. 2. cap. 7. & lib. 3. cap. 3. See Bomba:

Battery cometh of the French (batre. i. verberare, cudere, percutere) and lignifieth in our common lawe, a violent striking of any man, which the Civilians call iniuriam personalem, quia persona infertur per verbera, cruciatu, &c. Wesemb. parat. T. de Iniur. & fam. libel.

Baubels (baubella) is an old word, fignifying Iewels. Ro. Hoveden parte poster. suorum annal. so. 449. b.

Bearding, alias, Barding of wooll-

See Clack.

Bearers, fignifie all one with Maintainers, anno 20. Edvar. 3. cap. 5.

Beconage (Beconagium) fignifieth money paid for the main-

tenance of Becons.

Bempleder(pulchre placitando) is made of. 2. french words (beau. 1. decorns, formo (us, pulcher) and (pleder. 1. disputare, & causam agere) It fignifieth in our common law, a writ vpon the statute of Marlbridge or Marlboren, made the 52. yeare of H.z.ca. 11. whereby it is provided, that neither in the circuit of Iustices, nor in Counties, Hundreds, or Courts-baron, any fines shall be taken of any man for faire pleading, that is, for not pleading fairely or aptly to the purpose. Vpon which Statute, this writ was ordained against those, that violate the lawe herein. See Fitz nat. br. fol. 270. A.B.C. whose definition is to this effect: The writ ypon KI the ! the Staute of Marlebridge for not faire pleading, lyeth where the Shyrecue or other Bailiffe in his court, will take fine of the party plaintiffe or defendant, for that he pleadeth not fairely, &c.

Bedell (Bedellus) commeth of the French (bedeau.1. apparitor) & it fignificth with vs, nothing elfe but a messenger or seruitour belonging to a Court, as a Courtbaron or Leet, Kitchin fol. 46. where you may fee his oath: or to the Court of the Forest, Manwood parte pri. of his Forest lawes. pag. 221. in these words: A Bedell is an officer or servant of the Forest, that doth make all marer of garnishments of the Courtes of the Forest, and also all maner of Proclamations, as well within the Courts of the Forelt as without; and also doth execute all the processes of the Forest. He is like to a Bailiffe errant of a Shyreeue in a countie,&c.

Benefice (Beneficium) is generally taken for all ecclesiasticall liuings, be they dignities or other, as anno 13. R. 2. stat. 2. ca. 2 where benefices are divided into elective, and benefices of gift. So is it vsed in the Canon lawe also. Duarenus de beneficiis. lib. 2.

Beneficio primo ecclesiastico habendo, is a writ directed from the King to the Chanceler, to bestow the benefice that first shall

cap. 3.

fall in the kings gift, aboue or vnder fuch a valew, vpon this or that man, Regist. orig. fol. 307.b.

Benevolence (Benevolentia) is vsed both in the Chronicles and Statutes of this realme, for a voluntarie gratuitie giuen by the fubiects to the King. Looke Stowes annals page 701. That it hath bene fomething sunciently accustomed, it appeareth by him and by the Statute anno 1. Ric. 2. cap. 2. where it is called a newe imposition; and in that respect reprehended by that tyrant in his predecessors: whether justly or not I cannot fay, nor mind to dispute. But Stone, pag. 791 . faith, that the inuention grewe from Edward the fourths dayes. You may find it also, anno 11. H.7.ca. 10.to haue bene yeelded to that worthy Prince, in regard of his creat expences in wars and otherwise. This is also mentioned and excepted out of the pardon, anno I. Ed. 6. cap. 15. It is in other nations called (subsidium charitativum) ginen somtime to Lords of the fee, by their tements, fomtime to bishops by their Clergy. Matthans de Afflictis, de [csf. 136. Cassan. de consuet. Buro. pag. 134. 136. Baldus consitio. 120. vol.6. pag. 230. Of this Manochius maketh mention, lib. z. centur. 2. ca. 178. 6 179. shewing, when it is lanful for a Prelate charitativum subsidium à sibisubditis exigere, & Copie bould and Free bould.

Bon's arrestandis, is a writ, for the which See Arrestandis bonis.

Bonis non amovendis, is a writ to the Shyreenes of Lordon, cro. to charge thein, that one condemned by judgement in an action, and profecuting a writ of errour, be not suffered to remooue his goods, vntill the errour be tried.

Register.orig. fo. 131.b.

Borow (burgus vel burgum) may either come from the French (burg.i.pagus) or from the Saxon (borboe.i.vadium, pignis.) It fignifieth here in England a corporate towne that is not a Citie. anno 2. Ed. 3. ca. 3, namely all fuch as send Burgesses to the Parlament: the number whereof you may see in M. Cromptons Inrisd. fo. 24. It may probably be thought, that it was aunciently taken for those companies confifting of ten families, which were combyned to be one ano. therspledge or borhoe: See Bra-Eton li. 3. tractat. 2. ca. 10. See Headborowe, and Borowhead, and M. Lambard in the duties of constables.pa. 8. Lynnood vpon the provinciall (ve fingula de cenfibus), speake to this effect: Aliqui interpretatur burgum esse castrum, vel locum vbi sunt crebra castra.ve! dicturburgus, vbi sunt per limites habitacula plura constituta.) But then fetting downe his owne opinion, he defineth it thus: Burgus

dici potest villa quacung alia a ciustate, in qua est vniuersitas approbata. And that he proueth oute of the 11. booke of Instinians Cedex. 11tulo de fund.rei prinata. 65.et.1.6. eius tituli. where burgus is termed corpus. some derive it from the greeke (Topyot. i. turris) fee M. Skene de verbo signif verbo, Borghe. The late author M. Verflegan. in his restitution of decaied intelligences, faith, that (burg) or (burnh) whereof we fay yet (Borough) or (Bourrow) metaphorically fignifieth a towne, having a wall, or some kinde of closure about it; also a Castell. All places that in old time had among our auncesters; he name of borrough, were places one way or other fenfed or fortified.

Bordlands, fignifie the demeasus, that lords keepe in their hands, to the maintenance of their bord or table. Bratt. li. 4 trattat. 2. ca. 9, e. u. 5.

Borowhead alias Headborone, (capitalis plegies) by M. Lamberds opinio in his treatife of Coffables, is made up of these two words. (borhoe is pledge and (head) and signifieth a head orchiefe pledge. And in explication of this, and other Saxon words of this nature, he maketh an excellent rehearfall of some auncient customes of England, during the reigne of the Saxons, which you may

reade. This borowhead (in fhort)

Was

was the head or cheife man of the Decurie or Borhoe, that there he speaketh of, chosen by the rest to speake, & to doe in the name of the rest, those things that concerned them. See Borowholders.

Boronhomlders, alias Bursholders, be quasi borhoe ealders, signifing the same officers that be called borowheads. (Lamb.in the duties of Constables.) Bracton calleth them (Borghie Aldere) li.z. trattat. 2.6a. 10.

Borow english, is a custumarie descent of lands or tenements, whereby in all places where this custome holdeth, lands and tenements descend to the yongest sonne: or, if the owner have no isfue, to his yongest brother: as in Edmunton. Kitchin. fo. 102. And the reason of this custome, as (Liteton saith) is, for that the yongest is presumed in lawe, to be least able to shift for himselfe.

Boron goods divisable, I finde these words in the statute of A-thon. Burnellanno 11.Ed. 1. statuto vnico. and dare not considently set downe the true meaning of them. But as before the statute of 32.6-34. H. 8. no lands we are divisable at the common law, but in auncient baronics: so perhaps, at the making of the fore-saide statute of Aston turnel, it was doubtfull, whether goods were devisable but in auncient

borowes For it feemeth by the writ. de rationabili parte bonorum, that aunciently the goods of a man were partible betwene his wife and children.

Bore, fignifieth compensation. Lamb . explication of Saxon words. Thence cometh (manbote, alias monbote) that is compensation or amends for a manssaine, which is bound to another. For farder understanding whereof, it is to be seene in K. Inas lawes, set out by M. Lamberd. ca. 96. what rate was ordeined for the expiation of this effence: See Hedgebote, Plowbote, Howsebote. & reade M. Shene de verbo. signif. verbo. Bote.

Botiler of the king (pincerna regis) anno 43.Ed. 3.ca. 3.1s an officer that provideth the Kings wines: who (as Fletali. 2.ca. 21. faith) may by vertue of his office out of every shippe loaden with sale wines, vnum doleum eligere in prora navis ad opus regis, & alud in puppi, & pro qualibet pecia reddere tantum 20. solid.mercators. Si autem plura inde habere voluerit, bene licebit: dum tamen precium side dignorum indicio pro rege appenatur.

Bowbearer, is an under officer of the forest (as M. Crompton in his iurifact fo. 201 fetteth down, sworne to the true performance of his office in these words: I will true man be to the master fori-

Ster of this forest. & to his lieuetenent : and in the absence of them. I shall truly oversee, and true inquifition make, as well of fwornemen as vnfworne in euerie bayliwick, both in the north bayle, and fouth bayle of this forest, and of all maner of trespasses done, either to vert or venison, Ishall truly endeavour my selfe to attach, or cause them to be attached, in the next court Attachement, there to be prefented, without any concealment had to my knowledge: so helpe me God.&c.

Bracton (otherwise called Henry of Bracton) was a famous lawyer of this land, renowmed for his knowledge both in the common and civil lawes, as appeareth by his booke every where extant. He lived in the daies of Henry the third. Stann. prero fo. 5.b. and as some fay, Lord cheife

Iustice of England.

Bread of treate, and bread of coket. amo. s 1.H.3. statuto. 1.ot

bread and ale.

Bred, fignificth broade. This word Bratton victh, li. 2 tralta. 2. ca. 15.nu. 7. proverbially thus to lange and to bred : the meaning whereof you may there finde, word for word it is, as we now speake, two long and two broad: or two in length, and two in breadth. yldadovimi jon yam

Breuibus, & rotulis liberandis, is

a writ or mandat to a Shyrecue to deliver vnto the newe Shyrecue chosen in his roome, the county with the appertenances, together with the rols, briefes, remembrances, and all other things belonging to that office. Register.original.fo. 295.a.

Bribours, commeth of the french (bribear.i.mendicus) It seemeth to fignific with vs, one that pilfreth other mens goods. anno

28.Ed. 2. stat. I.ca. vnico.

Brief (breve) commeth from the French (brefou breif. i. brevis) and in our common lawe, fignifieth a writ, whereby a man is fummoned to answer to any action:or (more largely) any precept of the king in writing, iffuing out of any court, whereby he commaundeth any thing to be done for the furtherance of iustice or good order. The word is vsed in the civile lawe, some time in the fingular number and masculine gender. as I.vlt. Cod. de conveniendis fisci debitoribus.li. 10. tit. 2. you have these words: Inter chartulas confiscati brevis, quidam adseueratur invetus, qui nomina cotinebat debitoru. Where it is ysed for a short note. Again, I finde a title restored by Gothofred, in the first booke of the Code. de quadrimenstruis brevibus. Quadrumenstrue autem breves erant, qui de singulis indictionum pensionibus, quirto quog, mense solutis, conficiebantur.

Alto

Also Lampridius in Alexandro hath it fingularly thus: verarium, ani falfum causa brevem in consilio imperatorieretuliffer erc. And in the Authetiques. Novel. 105.54.2.4011 have this word (brediatores. i. brevism proferiptores). Breves autem, brevia, brevenla, sunt charta five libelli breves , as Gothofred. there noteth. Where he noteth likewise out of Zonaras in Carthao in: Cocilio, that this is a greeke word thus: BeeBior i exiloun as velau nas outlop of yeaph. Sec Skene de verbo. signif. verbo Brene. Of these breifes see also Bracton.li.s.tract. 5.ea. 17.nu. 2. Breve guidem cum sit formatum ad similitudinem requila inris, quia breviter & paucis verbis intentionem proferentis exponit & explanat, sout requia iuris rem que est breviter enarrat. Non tamen ita breve effe debet, quin rationem & vim intentionis contineat. erc.

Brigandine (lorica) is the french (brigandine) that is a coate of maile. This is vied. anno 4. & 5.

Ph. or Mar.ca. 2.

Brigbote, significat quietantiam reparationis pontinus. Fleta. li. 1. ca. 47. It is compounded of (brig) a bridge and (bote) which is a yeelding of amends or supplying a defect. See (Bote) and Bruck-bote.

Britton, was a famous Lawyer, that lived in the daies of K. Edward the first, at whose commundemet, & by whose authority he writ a learned booke of the lawe of this realme. The tenure wherof runneth in the Kings name, as if it had beene penned by himselfe answerably to the Institutions, which Iustinian assumeth to himselfe, though composed by others. Stawnf. praro fo. 6. 6 21.S. Edward Cooke faith, that this Bruton writ his booke in the fifte yeare of the faid Kings reigne.11.4.fo. 1 26.4. & lib. 6. fo. 67.a.M.Guin. in the preface to his reading, mencioneth, that this John Britton was bishop of Hereford.

Broke, commonly called S. Robert Broke, was a greate lawyer and lord chiefe Iustice of the comon plees in Queene Maries time. Cremptons Iustices of peace fo. 22, b. he made an abbridgement of the whole lawe, a booke of

highe accoumpr.

Broker (brocarms.) scemeth to come from the French (broiem. tritor) that is a gryneder or breaker into small peeces. Because he that is of that trade, to deall in maters of mony and marchandise between Englishe men and Strangers, doth draw the bargaine to particulars, and the parties to conclusion, not forgetting to grinde out somthing to his owne profit. These men becalled broggers. anno. 10. R. 2. ea. i. It may not improbably be said, that this word commeth from

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carder.i. cavillari.) because these kinde of men, by their deceitfull speeches and abusing their true trade, many times inuegle others. In Scotland they be called (broccary) and in their owne idiome, blockers or brockers, that is, mediators or intercessors in any trasaction, paction, or contract: as in buying or selling, or in contracting mariage. Skene de verbo. signi. verbo.broccary.

He that will know what these brokers were wont & ought to be, let him read the statutanno.1. Iacobi.ea. 21. These in the civile lawe are called (proxeneta) as also of some (licitatores & mediatores.titulo.de proxeneticis in Digestis. This kind of dealer is also of the Romanes called (pararius) Seneca.li.2.de benef.ca. 22. Celius Rhodoginus, libro.6.ca. 32.& li 3.cap.15.

Broderers (commeth of the French (brodeur) and that commeth of (bordure.i. simbria, limbus) the edge or hemme of a garmet. And that because it is distinguished fro the rest, most comoly, by some conceipted or costly worke; he that worketh it, is called (brodeur) in French, and broderer or embroderer with vs.

Brodehalpeny, commeth of the three Saxon words (bret, or bred,) i. a boord: and (balve) that is, for this or that cause (cuius rei gratia) as the Latinists speake, and

(penning) it lignifieth a tolle or custome for setting up of tables or boords in a Faire or Market. From the which they that are freed by the Kings Charter, had this word mentioned in there leters patents. In so much, as at this day the freedome it selfe (for shortnesse of speech) is called by the name of brodebalpenie.

Broggers, Sec Brokers.

Bruckbote (Pontagium) is compounded of two German words (bruck.i. pons.) and (bote. i. compensatio.) It fignifieth with vs., a tribute, contribution, or ayde toward the mending or reedising of bridges; whereof many are freed by the kings charter. And thereupon the word is vsed for the very libertie or exemptio from this tribute. See Pontage & Brigbote.

Bull (bulla) seemeth to come from the Greeke, (\$400) i. constium) as Polidorus Virgilius saith, de inventio. rerum. lib. 8. cap. 2. It signifieth the leters, by the Canonists called Apostolique, strengthened with a leaden seale, and containing in them the decrees or commandements of the Pope or bishop of Rome. The word is vied many times in our Statutes: as anno 28. H. 8. cap. 16. & anno 1. & 2. Ph. & Ma. ca. 8.

Bullion, cometh of the French (billon) that is, the place where gold is tried. It fignifieth with vs, gold or filuer in the masse or biller, anno 9. Ed. 3. stat. 2. cap. 2. and sometime the Kings exchange or place, whether such gold in the lumpe is brought to be tryed or exchanged, anno 27. Ed. 3. stat. 2. cap. 14. & anno 4. H. 4. cap. 10. See Skene de verbo. signif. verbo Bullion.

Burgbote, commeth of (burg. i. castellum) and (bote. i.compensatio) and fignifieth a tribute or contribution toward the building or repairing of castels, or walles of defence, or toward the building of a borow or city. Fro this divers had exemption by the auncient charters of the Saxon kings. Whereupon it is taken ordinarily for the exemption or libertie it selfe. Rastals expos. of words. Flera hath these words of it: Significat quietantiam reparationis murorum civitatis vel burgili 1. cap. 47.

Burgh English. See Borow En-

glish.

Burgage (burgagium) is a tenure proper to cities & townes, whereby men of cities or borowes, hold their lands or tenements of the King, or other Lord for a certaine yearely rent. Old Tenures. It is a kind of focage. Swinborn. parte 3. §. 3. nu. 6.

Burglarie (burglaria) is compounded of two French words, (bourg. i. pagus, villa) and (lareein, i. furum,) or of (bourg & laron Coke lib. 4. fol. 39.6. It is, according to the acceptance of our common lawe, thus defined: Burglarie is a felonious entring into another mans dwelling house, wherein some person is. or into a Church in the night time, to the end to commit fome felonie therein: as to kill fome man, or to steale somewhat thence, or to do some other felonious act there, albeit he exccure nor the fame. If the intent. or fact of this offender, be to steale, this is like robberie, if to murder, it differeth not much from murder, and so of other felonies. West parte 2. symbol. titulo. Indictments. Sect. 56. Burglaric, in the naturall fignification of the word, is nothing, but the robbing of a house: but as it is (vox artis)our common Lawyers restraine it to robbing a house by night, or breaking in with an intent to robbe, or to do some otherfelonie. The like offence committed by day, they call house-robbing, by a peculiar name. How many wayes burglarie may be committed, see Cromptons Instice of peace, fol. 28. b. & fol. 29. 30.

Butlerage of wines, signifieth that imposition of sale wine brought into the land, which the Kings butler, by vertue of his office, may take of every shippe, anno 1. H. 8. cap. 5. For

the

the which see more in Botyler.

of a land of the Constant of the

Cablish (eablicia) among the Writers of the Forest lawes, significant brush wood, Mannood parte pag. 84. Cromptons Iurisa. fol. 165.

Calamus, is a cane, reed, or quill, the diuers kinds wherof, you have let downe in Gerards Herball. lib. 1. cap. 24. This
is comprized among merchandize and drugs to be garbled, in the statute anno 1. lacobi,
cap. 19.

Calendrin of Worsseds. anno 5. H. 8. cap. 4. & anno 35. einssem.

cap.s.

Cantred is as much in Wales, as an hundred in England. For Camre in the British tongue signifieth centum. This word is vsed

anno 28. H. 8. cap. 3.

Cape, is a writ indiciall touching plee of land or tenements, so tearmed (as most writs be) of that word in it selfe, which carieth the especiallest intention or end thereof. And this writ is divided in (Cape magnum, & Cape parvum:) both which (as is before said in Attachment) take hold of things immoueable, and seeme to differ between themselves in these points. First, because (cape magnum) or the (grand Cape) lyeth before ap-

pearance, and (Cape purvum) afterward. Secondly, the (Cape magnum) fummoneth the tenent to aunswer to the default, and ouer to the demaundant: (Cape parvum) summoneth the tenent to aunswer to the default onely: and therefore is called (Cape parvum) or in French English (petit Cape.) Old. nat. br. fol. 161. 162. Yet Ingham faith, that it is called (petit Cape)not because it is of final force, but that it confifteth of few words. (Cape magnum) in the o'd nat. br. is thus defined. This writ is a judiciall, and lyeth where a man hath brought a (Pracipe quod reddat) of a thing that toucheth plee of land, and thetenent make default at the day to him given in the writ originall: then this writ, shall goe for the king, to take the landinto the kings hands: and if he come not at the day given him by the (grand Cape) he hath loft his land, &c. A prefident and forme of this writ you may fee in the Register judiciall, fol. 1.b. It seemeth after a fort to containe in it the effect (miffienis in possessionem ex primo es secondo decreto) among the Civilians. For as the first decree feiseth the thing, and the fecond giveth it from him, that the fecond time defaulteth in his appearance: fo this (Cape) both seiseth the land, and also offigueth to the partie's L 3

farder day of appearance, at which if he come not in, the land is forfeited. Yet is there difference betweene thefe two courses of the civill and comon lawe: first, for that (miffio in possessionem) toucheth both moueable and immoueable goods, whereas the (cape) is extended only to immoueable: fecondly, that the partie being fatisfied of his demaund, the remanet is restored to him that defaulted: but by the (cape) all is seised without restitution: thirdly, (miffio in possess) is to the wfe of the partie agent, the (cape) is to the vie of the king. Of this writ, and the explication of the true force and effect thereof, reade Bracton lib. s. tract. 3. cap. 1. num. 4.5.6 6. See Cape ad valentiam.

Cape parvum, in the Old. na.br. fol. 162. is thus defined: This writ lyeth, in case where the tenent is summoned in plee of land, and commeth at the fummons, and his appearance is of record, and after he maketh default at the day that is giuen to him: then shall goe this writ for the king &c. Of this likewise you have the form in the Register indiciall, fol. 2. a. Why it is called cape paruum, see in cape magnum. Of both shele writs, reade Fleta lib. 6. Eap, 44. S. Magnum & logg. bus

Cape ad Valentiam, is a species of cape magnum, fo called of the end whereunto it tendeth. In the Old nat. br. fol. 161. 162. it is thus defined or described: This writ lyeth, where any impleaded of certaine lands, and I vouch to warrant another, against whom the summons ad warrantizandum, hath bene awarded, and the Shyreeue commeth not at the day given : then if the demandant recouer against me, I shall have this writ against the vouchee, and shall recover to much in value of the land of the vowchee, if he have fo much; and if he have not fo much, then I shall have execution of fuch lands and tenements, as descend vnto him in fee-simple: or if he purchase afterward, I shall have against him a resummons: and if he can nothing fay, I shall recouer the value. And note ve, that this writ lyeth before apparence. Thus farre goeth the booke. Of these, and the divers vies of them, see the Table of the Register indiciall, verbo. Cape.

Capias, is a writ of two fortes, one before judgement called (Capias ad respondendum) in an action personall, if the Shyreeue vpon the first writ of distresse turne (nihil habet in balmanostrat) and the other is a writ of execution after judgement, being also

of divers kindes (viz. Capus ad fatisfaciendum, Capias pro fine, Capias velagatum, Capias velagatu & inquiras de bonis & catallis).

Capias ad satisfaciendum, is a writ of execution after judgement, lying where a man recouereth in an action personall, as debt, or dammages, or detinew in the kings court: and he again ft whomethe debt is recourred. and hath no lands nor tenemets, nor sufficient goods, wherof the debt may be leuied. For in this case, he that recouereth, thal have this writ to the shrene. commanding him that he take the body of him, against whome the debt is recovered : and he shalbe put in prison, vntill satisfaction be made vnto him that recovered.

Capias pro fine, is where one being by judgement fined vnto the king, vpon some offence committed against a statut, doth not discharge it according to the judgement. For by this is his body taken, and committed to prison, vntill he content the king for his fine. Coke, le. 3 fo.

Capias vilagatum, is a word of execution, or after judgement, which lyeth against him that is outlawed upon any suite: by the which the shyreue upon the receite thereof, apprehendesh the party outlawed, for not appear-

ring vpon the (exegend) and keepeth him in safe cuttodie vn-till the day of returne assigned in the writ: and then presenteth him vnto the court, there farder to be ordered for his contempt.

Capias vilagatum, & inquiras de bonis & catallis, is a writ al one with the former, but that it giueth a farder power to the shyrecue, ouer and beside the apprehension of the body, to inquire of his goods and cattels. The forme of all these writs see in the ould nat. br. fo. 154. and see the Termes of law, verbo Proces. Lastly you may finde great variety of this kinde, in the table of the Register judiciall. verbo Capius.

Capies in Withernamism de averies, is a writ lying for catell in Withernam. Register orig fo.82.65.83. see Withernam.

Capias in Wathernansium de hemine, is a writ that lyeth for a feruant in Withernam. Regist.or.fo. 79.6.80.sec Withernam:

Capies conditions ad proficifeendam, is a writ that liethfor the taking up of fuch, as having receiued prest mony to serve the king, slink away, and come not in at their time assigned. Register. orig. so. 191.

Captaine, aliar capitagne (capitaneus) commeth of the French (capitaine) and fignifich with vs, hunthat leadeth, or hath charge

of

of a companie of fouldiers: and is either generall, as he that hath the gouernance of the whole hoft:or speciall, as he that leadeth one only band. The word (capicanci) in others nations fignifieth more generally those, that are in latine called (principes) or (proceres) because, as Hottoman faith in verbis feudalibus : tangua caput reliquo corpori, sic by reliquis civibus prasunt. He divideth them into two forts : and to yfe his words.alii sunt capitanei regni:quo verbo Duces, Comites, Marchiones intelligatur. li.1.feudo.tit.1.5.1.6 ti.7. Alii improprie, qui vrbii prefecti sunt quebus plebs ab aliquo superiorum gubernanda committitur:qui & vallasores regin, or maiores appellantur.l.1 fend tit. 1 5.1.6 tit. 7. 6 tit. 17. So we have captaines of castels heere in England, and other places, as of the Isles of Gearley and Gearnsey, of the Isle of Weight, coc.

Capite, is a tenure, which holderh immediately of the king, as of his crown, he it by knights feruice or socage: Broke.tit. Tenures. 46.94. Dyer. fo. 123.nu. 38 & fo. 363.nu. 18. & not as of any Honour, castell, or maner: and therefore it is otherwise called a tenure, that holdeth meerely of the king, because as the crowne is a corporation, and seigneury in grosse (as the common lawyers terme it) so the King that

possesset the crowe is in accopt of lawe , perpetually King, and neuer in his minoritie, nor neuer dicch : no more then (topulus) doth, whose authoritie he beareth See Fitzh nat br. fo. s. F. Note by the way, that'a man may hold of the king, and not (in Capite) that is, not immediately of the crowne in groffe, but by meanes of some Honour, castel, or maner belonging to the Crowne, wherof I hold my land. Whereof Kitchin faith well, that a man may hold of the King by Knight feruice, and yet not in capite, because he holdeth happily of some honour by Knights service, which is in the kings hands (as by defcent from his auncesters) and not immediately of the king, as of his crowne.fo.129. with whome agreeth Fitzb.nat. br f. s. K. whole words are to this effect: So that it plainely appeareth, that lands which be held of the king, as of an honour, castell, or maner, are not held in capite of the King: because that a writ of right, in that case, shallbe directed to the bayliffe of the honour, castell, or maner.&c. but when the lands beheld of the King, as of his crowne, then they be not held of honour, castell, or maner, but meerely of the King, as King, and of the Kings crowne, as of a feigneury of it lelfe in groffe, and the cheife aboue all other seigneu-

ries,&c. And this tenure in expite is otherwise called tenure holding of the person of the King. Dyer.fo.44.n.37. Author of the new termes. verb. Tenure in capite. Broke.titulo.Tenures.nu. 65. 99. And vet M. Kitchin. fo. 208. faith. that a man may hould of the person of the King, and not in capite. His example is this: if the King purchas a maner that I. S. houldeth, the tenent shall hould as he held before, and shall not render livery or primer fessin, nor hould in capite: And if the king graunt that maner to W.N. in fee, excepting the services of I. S. then I.S. holdeth of the king, as of the person of the king, and yet houldeth not in capite, but as he held before . So that by this booke, tenuere houlding of the person of the king, and tenure in capite, are two divers tenures. To take away this difficulty, I thinke M. Kitchin is in that place to be taken, as if he saide, not in capite by Knights feruice, but by focage, folowing the viuall speech : because most commonly where we talke of tenure in capite, we meane tenure by Knights feruice.

Carno, Cromptons iurisa. fol.

191. is an imunity

Carke, seemeth to be a quantititie of wolle, whereof thirtie make a Sarpler.anno.27.H.6.ca, 2.See Sarpler. Carrack, ahas Carrick, seemeth to be a shippe of burden, so called of this Italian (carrico) or (carco) a burden or charge, or of the spanish (cargo) you have this word. anno 2. R. 2. ca. 4.6 anno 1. Iaco.ca. 22.

Carroway seedes, alias Carroway seedes (semen cari vel carei) is a seed springing of the herbe so called, of whose operation you may read in Gerards berball. li. 2.ca. 396. It is reckoned among the merchandize, that ought to be garbled. anno.i. Iaco.ca. 19.

Carne of land (carneata terra) commeth of the French (charne. i.aratrum) and with vs is a certaine quantitie of land, by the which the subjects have some time bene taxed: wherevoon the tribute soe leuied, is called (Carvage Carnagium.) Bracton li. 2. ca. 16.nu. 8. It is all one with that. which the fame author. lib. 2. ca. 17. calleth (caracatam terra) For Litleton ca Tenure in Socage. Saith, that (bac foca foca, idem est quod carusa) (c, one fok or one plow land. Yet one place I finde in Stowes annals, that maketh me doubt. pag. 271. where he hath these words: The same time king Henry tooke carvage, that is to fay, two merks of filuer of eucry knights fee, toward the mariage of his fifter Izabell to the Emperor: where carvage cannot be taken for a plow land, except there ! MY

there were forme other farder division, whereby to raise of enery plowe land fo much: and fo consequently of every Knights fee: that is, of every 680. acres, two merkes of filuer. Rastall in his Exposition of words saith, that caruage is to be quite, if the lord the King shall taxe all the land by carues: that is, a priviledge, whereby a man is exempted fro carvage. Skene de verb. fignif.ver. Carucata terra, deriueth it from the French (charon, i. a plough, and faith, that it containes as great a portion of land, as may be tilled and laboured in a yere and day with one plough: which alfo is called bilda) or (bida terra) a word vsed in the old Britaine lawes. M. Lamberd among his precedents, in the end of his Eirenarcha, translateth (carucatu terre) a plough land.

Caruage (caruagium,) see

Carne.

Cassia Fistula, is a tree that beareth certaine blacke, round, and long cods, wherein is contained a pulpe, soft & pleasantly sweet, serving for many vies in Phisick. This tree with her vertues you may find described in Gerards Herball, lib. 3. cap. 77. The fruite is mentioned in the statute, anno 1. Iacob. cap. 19. among drugges and spices, that be to be garbled.

Cassia lignea, is a sweet wood

not vnlike to Cynamom, and fometime vsed in steede of Cynamom. Whereof you may read in Gerards Herball, lib 1.ca.141. This is called Cassia lignum, in the Statute anno 1. Iacob. cap. 19 and is comprised among merchandize that are to be garbled.

Castellain (castellanus) is a keeper or a Captaine, sometime called a Constable of a castell, Bra-Eton lib. 5. tractat. 2. eap. 16. 6 lib. 2. cap. 32. num. 2. In like maner is it vsed, anno 3. Ed. 1.cap. 7. In the bookes (de fendis) you shall find (gnastaldus) to be almost of the same signification, but something more large: because it is also extended to those that have the custodie of the Kings mansion houses, called of the Lumbards (curtes) in England (Courts,) though they be not places of defence or ftrength, M. Manwood, part. I. of his Forest lawes, pag. 113. faith, that there is an officer of the Forest called Castellanus.

Castelward (castelgardum, vel wardum castri) is an imposition laide vpon such of the kings subiects, as dwell within a certaine compasse of any castell, toward the maintenance of such, as doe watch and ward the castell. Magna charta, cap. 20. & anno 32. H.8.cap.48. It is vsed sometime, for the very circuit it selfe, which is inhabited by such as are sub-

iect to this service, as in Stowes

annals pag. 632.

Casu consimili, is a writ of entrie, graunted where the tenent by courtefie, or tenent for terme of life or for the life of another, doth alien in fee, or in tayle, or for tearme of anothers life. And it hath the name of this, for that the Clerkes of the Chauncerie did, by their common consent. frame it to the likeneffe of the writ, called (In casu promiso) according to their authoritie giuen them by the Statute, Westwe. 2. cap. 24. which, as often as there chanceth any new case in Chancerie, something like to a former case, and yet not especially fitted by any writ, licenceth them to lay their heads together, and to frame a new forme aunswerable to the new case, and as like some former case as they may. And this writ is graunted to him in the reversion, against the party to whom the faid tenent so alienateth to his preiudice, and in the life time of the faid tenent. The forme and effect whereof reade more at large in Fitz. nat. br. fol. 206.

Casu proviso, is a writ of entry, giuen by the Statute of Glocecester, cap. 7. in case where a tenent in dower alieneth in fee or for tearme of life, or in taile,

and lyeth for him in reuerfion against the alience. Whereof reade Fuz. nat. br. more at large,

fel. 209.

Catals (catalla) alias chatels, cometh of the Normans. For in the 87. chapter of the grand Custumarie you sha! find that al moueable goods with them, are called chatels: the contrary whereof is (fief) ibid. which we do call fee. But as it is vsed in our common law, it comprehendeth all goods moueable and immoueable, but fuch as are in the nature of free hould, or parcell thereof, as may be gathered out of Sawnf. prero. ca. 16. and anno. Eliza. 1.ca. 2. How be it Kitchin in the chapter catalla. fo. 32. faith, that ready mony is not accompted any goods or catels, nor haukes, nor houndes. The reason why hawks and hounds be not, he giueth, because they be (fera natura) why money is not, though he set not downe the cause : yet it may be gathered to be, for that money of it selfe, is not of worth, but as by cosent of men, for their easier trasicke, or permutation of things necessary for common life, it is reckoned a thing rather confishing in imagination, then in deede. Catals be either personall or reall. Perfonall may be fo called in two respects: one, because they belong M 2

long immediatly to the person of a man, as a bowe, horse, &c. the other, for that being any way withheld injurioufly from vs, we have no meanes to recouer them, but by personall action. Chatels reall be such, as either appertain not immediatly to the person, but to some other thing, by way of dependencie : as a boxe with charters of land, the body of a ward, apples vpon a tree, or a tree it selfe growing on the ground. Cromptons Instace of peace, fo. 2 3.B, or els such as are necessary issuing out of some immoveable thing to a person: as a lease or rent for tearme of yeares. Alfo to hould at will, is a chatellreall. New tearmes, verbo Chatell. The civilians comprehend these things, as also lands of what kin de or hould so euer, under bona; bona aute diniduntur in mobilia co immobilia: mobilia vero in ea que se movent vel ab ahis moventur. v. legem. 49. et. 1.208 n de. verb. significa. & interpretes ibidem. Brast. also ca. 3./1.2.nu 3.6 4. seemeth to be of the same indgement.

Catallis captis nomine districtionis, is a writ which lyeth within a borowe, or within a house, for rent going out of the same, and warranteth a man to take the doores, windowes, or gates, by way of distresse, for the rent. Oldnat.br. so. 66.

Catallis reddendis, is a writ, which lyeth where goods being deliuered to any man to keepe vntill a certaine day, and be not vpon demande deliuered at the day. And it may be otherwise called a writ of detinew. See more of it in the Register orig. fo. 139. and in the ould nat. br. fo. 63. This is answerable to actio deposits, in the civile lawe.

Carchepolle, though it now be vied as a word of contempt, yet in auncient times, it seemeth to have bene vied without reproch, for such as we now call sergeants of the mace, or any other that vie to arrest men vpon any cause. anno. 25. Ed. 3. star.

4.Ca.2.

Cathedrall. See church.

Casu matrimonii prelocuti, is a writ which lyeth in case where a woman giveth lands to a man in see simple, to the intenthe shall mary her, and resuseth so to doe in reasonable time, being required thereunto by the woman. The forme, and sarder vie hereof, learne in the Register orig fol. 233. and in Fitzh. nat.br. fo. 205.

Causamnobis fignifices, is a writ which lyeth to a Mayor of a towne or city, &c. that formerly by the kings writ being commaunded to gine feisin vnto the kings grantee of any land or tenements, doth delay so to

do, willing him to shew cause, why he so delayeth the performance of his charge. Coke.li.4.casu communalty des Sadlers. fo. 5 5 b.

Cautione admittenda, is a writthat lyeth against the Bishop, houlding an excommunicate person in prison for his contempt, notwithstanding that he offereth sufficient caution or assurance to obey the commandments and orders of holy church from thence forth: The forme and farder effect whereof, take out of the Regist, orig. pa.66. and Fazh nat. br. fol. 62.

Century (centuria) See Hundred. Cepi corpus, is a returne made by the Shyreue, that vpo an (exiged) he hath taken the bodie of the partie. Fuzh nat. br. fo. 26.

Certiorari, is a writ iffuing out the chauncerie, to an inferiour courte, to call vp the records of a cause therein depending, that conscionable instice therein may be ministred, ypon complaint made by bill, that the partie which seeketh the faid writ, hath received hard dealing in the faid court. Termes of the lane. See the divers formes and vies of this, in Fazh. nat. br. fo. 242, as also the Register, both originall and indiciall in the tables. verbo. Certiorari. Crompto in his Inflice of peace fo 117. faith, that this writ is either returnable in the Kings bench, and then hath these

wordes (nobis mittatis):or in the chauncerie, and then hath (in cancellaria nostra) or in the common bench, and then hath (Insticiariis nostris de banco.) The word (certicrare) is yield divers times in the digest of the civile lawe:but our later Kritiques, think it soe barbarouse, that they suspect it rather to be foisted in by Tribonian, the to be originally yield by those men, of whose workes the saide digest is compiled. Prataus in suo lexico.

Certificat (certificatorin) isvsed for a wirting made in any courte, to give notice to another courte of any thing done therein. As for example, a certificate of the cause of attainte, is a transcript made briefely and in few words. by the clerke of the Crowne, clerke of the peace, or clerke of affife, to the courte of the Kings benche, conteyning the cenure and effect of everie endi-Etment, outlawrie, or conviction, and clerke attained, made or pronounced in any other court. an. 34. H. S.c. 14. Of this see more in Certificat d'evefque. Broke.f.iig.

Certification of affife of novel dissessingers (Certification of fife nova dissessina, &c.) is a writ graunted for the re examining or revew of a mater passed by assiste before any suffices, and is called (certificatione nova dissessina) Old, nat. br. fo. 181. Of this see also the Regi-

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ster.original.fo. 200. and the newe booke of entrise. verbo. Certificat of affife. This word hath vie, where a man appearing by his bayliffe to an affife brought by another, hath loft the day : and hauing fomething more to pleade for himselfe, as a deede of release, &c. which the bayliffe did not, or might not pleade for him, desireth a farder examination of the cause either before the same Instices, or others: and obteineth leters, patents vnto them to that effect. (The forme of theie leters patents, you may see in Fitzb.nat. br. fo. 181.) and that done, bringeth a writ to the Shyreeue, to call both the party for whome the affife paffed, and the Iurie that was empaneled vpon the fame, before the said Iustices at a certaineday and place. And it is called a certificate, because in it there is mention made to the Shyreeue, that vpon the parties complainte of the defective examination, or doubts yet remaining vpon the affife paffed, the King hath directed his leters patets to the Iustices, for the beter certifiing of themselves, whether all points of the said affise were duly examined, yea or not. See farder old. nat. br. and Fazh. vbi supra. Of this also you may reade Braiton.li.4.ca.19.nu.4. in fine. & 5. 6. where he discusseth

the reason of this pointe very learnedly and lastly Horn in his Myrrour of Iustices li. 3 cassinals. s.en eyde des memoyres, &c.

Certificando de recognitione Stapula, is a writte directed to the Mayor of the staple, &c. comaun. ding him to certifie the chaunceler of a statute of the staple. taken before him betweene fuch and fuch, in case where the partie himselfe detaineth it, and refuseth to bring it in. Regist. orig. fo. 152. 6. In like maner may be said of (certificando de statuto mercatorio eodem. fo. 1 48. and (de certificando in cancellarium de inquisitione, de idemptitate nominis) fo. 195. and (certificando quando recognitio,) & c. and (certificando quid actum est de breui super statutum mercatorium.) fo. 151 & certificando si loquela Warantie.fo.12.

Ceffor, is he that cefeth or neglecteth fo long to performe a dutie belonging vnto him, as that by his ceffe or ceffing he incurreth the daunger of lawe, and hath, or may have the writ (ceffavit) brought against him. Old.nat.br.fo. 136. And note, that where it is saide in diuers places (the tenent ceffeth) without any more words, such phrase is fo to be understood, as if it were faid: the tenent cefeth to doe that which he ought, or is bound to doe by his land ortenement. That had the

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Ceffavit, is a writ that, lyeth in divers cases, as appeareth by Fitzb nat.br. fo. 208. vpon this generall grounde, that he against whome it is brought, hath for 2. yeares foreslowne to performe fuch feruice, or to pay fuch rent, ashe is tied vnto by his tenure, and hath not ypon his land or his renement, sufficient goods or catells to be distreined. Confult more at large with Fitz. vpon this vbi supra. with Fleta. li.5.ca.34.6. vifa funt. and with the Termes of lawe. See Ceffauit de cantaria. Register orig. fo. 238. Cessavit de feodi sirma. eodem fo. 237. Cessavit per biennium.eodem. folio etiam eodem. See the newe booke of entrise . verbo Cessavit.

Cestui qui vie, is in true French (cestui a vie de qui).i.he for whose life any land or tenement is graunted. Perkms graunts. 97.

Cestus quivse (ile cuius vsui vel ad cuius vsum) is broken french, and thus may be bettered: (Cestus al vse de qui) It is an ordinarie speech among our common lawyers, signifying him, to whose vse any other man is infeosfed in any lands or tenements. See the newe booke of entrise. verbo vses. and in Replevin. fo. 503. colum. 3. coverbo Trespas fo. 606. Cofo. 123. a.b. colum. 3. nu. 7.

Chafewaxe, is an officer in chauncery, that fitteth the waxe for the fealing of the writs, and such other instruments as are there made to be sent out. This officer is borowed from the French. For there (ealefattores cera sunt, qui regiis literis in Cancellaria ceram imprimient. Corassus.

Chase (chacea) commeth of the French (chasser. 1. sectari belluas, apros, cervos) It signifieth two things in the commo lawe. First, as much as (actus) in the civil lawe, that is a dryving of catell to or from any place: as to chafe a distresse to a fortlet. Old nat. br. fo.45. Secondly, it is vied for a receite for deere and wilde beafts, of a middle nature betweene a forest, and a parke : being commonly lesse then a forest, and not endued with fo many liberties, as the courtes of attachment, Smaine mote, and Inflice feate: and yet of a larger compas, and stored with greater diversity both of keepers and wilde beafts or game, then a park. And Crompton in his booke of Inrifdictions. fo. 148. faith, that a forest cannot be in the hands of a subject, but it forthwith loofeth the name, and becommeth a chase and yet fo. 197. he faith, that a subject may be lord and owner of a forest, which though it seeme a contrariety, yet be both his fayings, in some fort, true. For the king may gine or alienate a forest to a subject: yet so,

as when it is once in the subject, it leeseth the true property of a Forest: because that the courts, called the Iustice seate, the Swain mote, and Attachment, foorthwith doe vanish: none being able to make a Lord chiefe Iustice in Eyre of the Forest, but the king: as M. Manwood well flieweth parte 2. of his Forest lawes, cap. 3. & 4. And yet it may be granted in so large a maner, that there may be Attachement and Swainemote, and a court equiualent to a Iustice seat, as appeareth by him in the fame chapter, num. 3. So that a chase differeth from a Forest in this, because it may be in the hands of a subject, which a Forest in his proper & true nature cannot:and from a Parke, in that that it is not inclosed, and hath not onely a larger compasse, and more store of game, but of Keepers also and ouerseers. See Forest.

Chalenge (calumnia) commeth of the French (chalanger, 1. sibiafferere) and is vsed in the commo lawe for an exception taken either against persons or things: persons, as in affise to the Iurors, or any one or more of them: or in a case of felonie by the prisoner at the barre. Smith de rep. Anglor. lib. 2. sap. 12. Britton.ca. 52. Bratton lib. 2. tratt. 2. cap. 22. Against things, as a declaration, eld nm. br. fol. 76. Chalenge

made to the Iurours . is either made to the array, or to the polles. Chalenge to the array is. when the whole number is excepted against, as partially empaneled: chalenge to or by the polle, when some one, or more are excepted against, as not indifferent. Termes of the law. Chalenge to the Iurours, is also divided into Chalenge principall, and Chalenge per cause. i. vppon cause or reason. Chalenge principall (otherwise by Stannf. pl. cor. fol. 157. & 158. called (peremptorie) is that, which the lawe alloweth without cause alledged or farder examination. Lamberd. Eirenar. l.b. 4. cap. 14. as a prisoner at the barre, arraigned vpon felonie, may peremptorily chalenge to the number of 20, one after another, of the Iurie empaneled vpon him, alledging no cause, but his owne dislike: and they shall be sill put off, and new taken in their places. But in case of high treason no Chalenge peremptorie is allowed, an. 33. H.S. cap. 23. Fortescue faith, that a prisoner in this case may chalenge, 35.men c. 27. but that law was abridged by anno 25. H. 8. cap. 3. I cannot here omit to note some difference, that (in mine opinion) I obserue betweene Chalenge principall, and Chalenge peremptorie, finding peremptorie

to be vied onely in maters criminall, and barely without cause alledged more then the prifoners owne phantasie, Stannf. pl. cor. fol. 124. but principall in ciuill actions for the most part, and with naming of some such cause of exception, as being found true, the lawe alloweth without farder scanning. For example: if either partie say, that one of the Iurors is the fonne, brother, cousin, or tenent to the other, or espoused his daughter, this is exception good and strong enough (if it be true) without farder examination of the parties credit. And how farre this chalenge vpon kinred reacheth, you haue a notable example, in Plowden, casa Vernon. against Maners. fol. 425. Also in the plee of the death of a man, and in every action reall, as also euery action personall, where the debt or dammages amount to 40. merks, it is a good chalenge to any man, that he cannot dispend 40. shillings by the yeare of Freehold, anno 11. H. 7. cap. 21. and Termes of the lawe, verbo Chalenge. The ground of this chalenge you may see farder in Fleta leb. 4. cap. 8. Chalenge vpon reafon or cause is, when the partie doth alledge some such exception against one or more of the Jurors, as is not forthwith fufficient vpon acknowledgement

of the truth thereof, but rather arbitrable and confiderable by the rest of the Iurors: as, for example: if the sonne of the Juror haue maried or espoused the daughter of the aduerse partie. Termes of lawe, vbi supra. This chalenge per cause, seemeth to be tearmed by Kitchin, chalenge for fauour, fol. 92. or rather Chalenge for fauour is faid there to be one species of chalenge per cause: where you may read what chalenges be commonly accounted principall, and what not. See the new booke of Entries, verbo, Chalenge, and the old nat. br. fol. 158.6 159. That this word (chalenge) is long fithence latined by the word (calumnia) appeareth by Bracton. lib. 3 tract. 2. cap. 18. & li. 4. tract. 3. cap.6. & lib. 5. cap. 6. But I doubt, Prifeian will neuer forgiue him that first strooke this blowe at him. Of chalenge you may farder read Fleta. lib. 1. cap. 32. S. Ad quem diem, & legg.

Chamberdekins, are Irish beg-

gers, anno I .H. s. cap. 8.

Chamberer, is vsed for a chamber maide, anno 33. H. 8.

cap. 21.

Chamberlaine (camerarius vel camberlingus) commeth of the French (chambellan.i.cubicularius, vel prafectus cubiculi.) It is diversly vsed in our Chronicles, Lawes, and Statutes: 2s Lord

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great Chamberlaine of England, Lord Chamberlain of the kings house, the kings Chamberlaine, anno 12. Ed. 1. cap. 41. anno 17. R. 2. cap. 6. to whose office it especially appertaineth to looke to the kings chambers and wardrobe, and to gouerne the under ministers belonging unto the same. Fleta leb. 2. cap. 6.6 7. Chamberlaine of any of the kings courts, anno 7. Ed. 6.cap. 1. Chamberlaine of the Exchequer, anno 51. H. 3. fat. 5.6 anno. 10. Ed. 2. eap. 11. & anno1 4. einschem. cap. 14. & anno 26. H. 8. cap. 2. Chamberlaine of north Wales, Stow. pag. 641. Chamberlaine of Chester. Cromptons inried. fol. 7. This Officer is commonly the receiver of all rents and revenues belonging to that person or citie, whereunto he is chamberlaine. v. Fletam li. 2. cap. 70. §. Siautem. The Latine word feemeth to expresse the function of this officer. For (camerarius dicitur à camera. i. testudine sive fornice:) quia sustodit pecunias qua in cameris precipie reservantur. Onyphrius de interpret. vocums ecclesasticarum. It seemeth to beborowedfrom the Fendists, who define the word (camera) thus: Camera est locus in quem the faurus recolligitur, vel conclave in quo peenniareservatur. Zasius de feudis. part. 4. num. 7. and Peregrinus, de inre fifci.lib. 6. tit. 3. faith, that camerarius vel camberlingus (que questorem antiqui appellarunt,) in rebus fisci primsum locum tenet, quia the faurarius & custos est publice pecunia. Sane officium hoc primipilatus fuile nonnulli senserunt. There be two officers of this name in the kings Exchequer, who were wont to keepe a controlment of the pels of receipt and exitus, & kept certaine keyes of the treafure cofers, which is not now in vie. They keepe the keyes of the Treasurie, where the leagues of the Kings predeceffors, and diuers auncient bookes doe remaine. There is mention of this officer, in the Statute anno 34. & 35. H. S. cap. 16. There be also vnder-chamberlaines of the Exchequer, which fee in Vnderchamberlaine.

Champartie, (cambipartita) alias champertie, seemeth to come from the french (champart.1.vettioal) and fignifieth, in our common lawe, a maintenance of any man in his fuit depending, vpon condition to have part of the thing (be it lands or goods) when it is recourred. Fitzh. nat. br. fo. 171. and champertours be they, that moue plees or fuites, or cause to be moued, either by their owne procurement, or by other; and perfyew at their proper colts, for to have part of the land in variance, or part of the gaines. anno. 33. Ed.1. ftat. 2.in

fine. Whereunto adde the third statut made the same yeare. This seemeth to have bene an auncient fault in our realme. For notwithstanding these former statutes, and a forme of writ framed vnto them, yet anvo. 4. Ed. 2. ca.11.it was againe inacted, that whereas the former statute prouided redresse for this in the kings bench onely (which in those dayes followed the court) from thence forth it should be lawfull for Juffices of the commonplees likewise, and Inflices of affifes in their circuits, to inquire, heare, and determine this and fuch like cases, as well at the fuite of the king, as of the party. How farrethis writ extendeth, and the divers formes therof, applied to seuerall cases, see Fitzh.nat. br.fo. 171. and the Regifter orig. fo. 183. and the new booke of entrife. verbe. Champertie. Euery champertie employeth maintenance. Cramptons urild fo. 39. See also his Iustice of peace. fo. 155. b. &c. These with the Romans were called redemstores litium, qui sc. quetidianas lites mercantur, aut quipartem litis pacifcuntur.l. & remunerandi. S. Maurus. R. Mandati.l. scontra. C.l. per diner (as. Co. eodem. 12.

Champson, (campio) is thus defined by Hotoman, in verbis fendalibus. Campio est certator pro also datus in duello: a campo dictus, qui in our common lawe, it is taken no lesse for him that trieth the combat in his owne case, then for him that fighteth in the place or quarell of another. Bracton li-3.tracta.2.ca.21.nu 4. who also seemeth to vse this word for such, as hould by sergeanty, or some service, of another, as: capiones faciunt bomagium domino such li-2.ca.35. Of this reade more in Battell and Combat. 30.

Chanceler, (cancellarius) commeth of the french (chanceleer) Vincentius Lupanus de magistratibus Francerum faith, that (cancellariss) is no latine word : how be it he citeth divers latine writers that doe vie it. With him agreeth that excellent man Tetrus Pithaus, libro. 2. aduer Cariorum.ca. 12. and whereas Lupanus would derive it from the verb (cancello) Pitheus confesseth, he hath good colour for his opinion , though he thinke it not found; and therefore rather deduceth it (a cancellis). (Cancellare) is (literas vel scriptum linea per medium ducta damnare) and feemeth of it selfe likewise to be deriued (a cancellis) which fignifie all one with (xizxxides) in greeke, which we in our tong call a letis: that is, a thing made of woode or iron barrs laide crosse waies one ouer another, fo that a man may fee through

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them in and out. And it is to be thought, that judgement feates in ould time, were compassed in with those barres, being founde most necessary to defend the judges and other officers from the presse of the multitude, and and yet neuer the more to hinderany mans view, that had a destre or cause to obserue what was done. Cancellarius at the first by the opinion of Lupanus, fignified the registers or actuaries in court, (grapharios sc: qui conscribendis & excipiendis indicum actis dant operam) Puthans faith, they were fuch as we now call (Secretarios) But this name in our daies is greatly advanced, and not onely in other kingdomes, but in ours also, is giuen to him, that is the cheife man for mater of iustice (in private causes especially) next vnto the prince. For whereas all other Iustices in our common wealth. are tied to the lawe, and may not fwerue from it in judgement: the Chanceler hathin this the kings absolute power, to moderate and temper the written lawe, and subjecteth himselfe onely to the lawe of nature and conseience, ordering all things iuxta equum & bonum. And therefore Stampford in his Prerogative.ca. 20.fo. 65. faith, that the Chanceler hath two powers: one absolute, the other ordinary: meaning that though by his ordinary power in some cases, he must obserue the forme of proceeding, as other ordinarie Judges: vet that in his absolute powerhe is not limited by the written law, but by conscience and equitie, according to the circumstances of the mater in question. But how long he hath had this power, some would doubt. For Polidorus Virgilius, lib. 9. historia Anglica. hath these words of William the Conqueror: Instituit item Scribarum Collegium, qui diplomata scriberent, & eins Collegii magi-Brum vocabat Cancellarium, qui paulatim supremus factus est Maaistratus, qualis bodie habetur. And ice Fleta, lib. 2. cap. 1 3. This high Officer, seemeth to be derived from Fraunce vnto vs, as many other Officers and vlages be. For of this thus writeth Boërius in his Tractate De authoritat. Magni Concilii.num. 8. Confiftorio Francia post Principsm Dominus Francia Cancellarius, cui velut excelsum indicii tribunal boc in regno (sub Principe tamen nostro) moderanti, stillumg, authenticum, quo sine publicis & pateribus regis literis nul-In fides adhibetur, liberam administrationem habenti, omnes & singuli regii Iusticiarii, quocunque nomine nuncupentur, acquavis authoritate fungantur, en inferiores sunt. Et merito: Succedit enim in questoris lacum G.c. He

He that beareth this magistracie, is called the Chanceler of England, anno 7. R. 2. cap. 14. and by the Statute anno 5. Eliz. cap. 18. the Lord Chanceler and Keeper haue all one power. Note farder that divers inferior Officers, are called Chancelers, as Chanceler of the Exchequer. an. 25. H. 8. cap. 16. v. hole office hath bene thought by many, to haue bene created for the qualifying of extremities in the Exchequer. He fitteth in the court, and in the Exchequer chamber, and with the rest of the court ordereth things to the kings best benefit: he is alwaies in comission with the Lord Treasurer for the letting of the lands that came to the crowne by the dissolution of Abbeyes: and hath by privie scale from the king, power with others to compound for forfeitures of bonds, and forfeitures vpon penall statutes. He hath alfo much to doe in the revenue come by the dissolution and first rmites, as appeareth by the acts of vniting them to the Crowne. Chanceler of the Duchie of Lacaster, anno z. Ed 6. cap. 1. 6 an. 5. einsdem. cap. 26. whose office is principall in that court to indge and determine all contronerfies betweene the king and his tenents of the Duchie land, and otherwise to direct all the kings affaires belonging to that

court. Chanceler of the Order. 1. of the Garter, Stones annals pag. 706. Chanceler of the Vniversity, anno 9. H. s. cap. 8. & anno 2. H. 6. cap. 8. Chaunceler of the court of Augmentations, anno 27. H. 8. cap. 27. & anno 22. eiusdem.cap. 20. & anno 33. eiusd. cap. 39. Chaunceler of the first fruites, anno 32. H. 8. cap. 45. Chaunceler of courts, anno 32. H.8. cap. 28. Chaunceler of the Diocesse, anno 32. H. S. cap. 15.

Chancerie (cancellaria) is the court of equitie and conscience, moderating the rigour of other courtes, that are more fireightly tyed to the leter of the lawe, whereof the Lord Chancelor of England is the chiefe ludge. Cromptons iurisd. fel. 41. or else the Lord Keeper of the great Seale, fithence the statute 5. Eliz. cap. 18. It taketh the name from the Chaunceler, as M. Camden noteth in his Britannia, pag. 114. in meo. The Officers belonging to this court, are (as is aboue faid) the Lord Chaunceler or Keeper of the broade Seale, twelve Masters of the Chancerie, whereof the Master of the rolles is one and the chiefe, the fixe Clerkes, the Examiners, a Sergeant at armes, the Marshall, and cryer of the court, the clerks of the courts; otherwise called Confleters, the clerkes of the petic bagge, the clerke of the crowne, the clerke.

clerk of the hanaper, the protonotary or register, the controller
of the hanaper, the clerk of appeales, the sealer, the chase waxe,
the clerke of the faculties, the
clerk of the patents, clerk of the
starre chamber, clerk of presentations, clerk of dismissions,
elerk of licenses to alienate,
clerkes of the enrolments, clerk
of the protections, clerk of the
court of wards, clerk of the sub
penaes, which see described in

their places.

Chapell, (capella) commeth of the French (chapelle, i.adicula) and is of 2. forts, either adjoining to a Church, as a parcel of the same, which men of worth doe build, or ibidem familiaria sepulchra sibi sonstituant, to the vie of the Romans. 1.5.x. de religio. or els feparate from the mother church, where the parish is wide, and is commonly called a chappell of ease: because it is builded for the ease of one or more parishioners that dwell ouer farre from the Church, and is serued by some inferiour curate prouided at the charge of the rector, er of them that have benifite by it, as the composition or custome is. Whence the word is derived the Canonifes differ in opinion. Rebuffies de pacif posses. nn. 104. faying that fome take it (à capiendo lascos) others (à capra) because it representeth those

cotages, which men were wont to couer ouer with goates skins. Petrus Gregorius in suo syntagma. teli. 15.ca. 29. hath these words of this thing: Capellanus à capellania & capella, cui praficium. nominatur: item ab officio senbeneficio & capellania. Capella aliquibus dicta, quafi capeens has fen populos vel capions laudens vel fecundism prapolitum, a cappa Dini Martine, unt a caprinis pellibus, quibus olim altaria tegebantur [ecundim Archidiaconum. Arbitrarer & a simplici te Ete, que oratorium carapestre operitur, lateribus undiquaque patentibus & patulis. Te-Etem enim Gallis simpliciter dicitar (chapelle) a capite. Unde & formata aliqua nomina (chapean, cape, GC) Aut capella locus qui mmoris Patii sit quam ecclesia quod tot bomines non capiat, et ecclesia. Ita altare capella est. ca. quasitum, o ca penult.i. quest. 3. Loban. Andreas. in ca. i. de succes. ab intesta. & prabenda cum onere quotidie celebrandi sacram liturgiam. ca. significatum. I I. de prabend. & oratorium.ca. authoritate: de privilegiis. in 6. gried in eo loco orationes non aliares profana teragi debeant. ca. pen. & fina. 42. distinct. The same author in his booke de beneficiis.ca. 11.m. 10. hath thefe words: Dicti porro primitus capellani, a cappa Sancti Martini, quam Reges Francorum ob adientorium in pralus solebant secum babere: quam ferentes & custodientes cum cateris san-Etorum reliquiis clerus, capellani caperunt vocari, vt omnia refert Valafridus Strabo. Abbas Augensis, ca. fina. de incrementis rerum esclesiastica.

There is of these chapels one kinde called a free chapell, which seemeth to be such as hath maintenance perpetuall toward the vphoulding thereof, and wages of the curate, by some land charitablely bestowed on it, without the charge of the rector or parishe. anno. 37. H. 8. cap. 4. anno. 1. Ed. 6. ca. 14.

Chapellaine, (capellanus) is he that performeth divine service in a chappell. and therefore in our common law, it is vied most ordinarily for him, that is depending ypon the king, or other man of worth for the instruction of him and his family, the executing of praiers and preaching in his private house, where commonly they have a chappell for that purpose. as anno. 21. H. 8.6a. 13. where it is fet downe what persons may priniledge one or moe chaplaines, to discontinew from their benefices, for their particular seruice.

Chapiters, (capitula) commeth of the French (chapitre.1. caput libri) It fignifieth in our common lawe, a lummary or content of fuch matters, as are to be inquired of or presented before Justices in Eyre, Justices of affife, or of peace in their fessions. Soe is it vsed., anno. 3. Ed. 1. ea. 27. in these words : and that no clerke of any Justice. Eschestour, or Commissioner in Eyre, shall take any thing for delivering chapiters, but onely clerkes of luffices in their circuits: and againe anno. 12.emsdem.ca. 10.in these words: and when the time commeth. the shyreeue shall certifie the chapiters before the Iustices in Ene, how many writs he hath and what &c . Britton likewife vieth the same worde in this fignification. ca. 3. Chapiters or (capitula) be now called articles most ordinarily, and are delinered as well by the mouth of the Iustice in his charge, as by the clerks in wrighting to the enquest; whereas in auncient times (as appeareth by Bratton and Britton) they were after an exhortation giuen by the Iustices for the good observation of the lawes and kings peace, first red diffinctly and opely in the whole court, and then delivered in writing to the grand enquest. And the fame order doth M. Lamberd wish to be kept in these daies also. Eirenar. li. 4. ca.4. pa. 293. Horn in his mirrour of Iustices calleth them articles, and expresseth what they were wont to containe. h. z. ca. des articles in Eire. An exaple of these chapichapters or articles, you have in the booke of assistes, fo. 138. nu. 44. as also in Royer Honeden, parte poster. Suorum annal. in Richar-

do prima. fo. 423.

Chapter. (capitulum) fignifieth in our common lawe (as in the canon lawe, whence it is borowed) congregationem clericorum in ecclesia cathedrali, connentuali, regulari, vel collegiata: and in another fignification, locum in quo fiunt communes trastatus collegiatorum. It hath other fignifications, though not greatly worth the repeating in this place, which you may read in Linwods prouincials.glos.in ca. quia in continentia.constitutionibus. verb.Capitulis. Why this collegiat companieshould be called (capitulum) of the canonists, a man may make a question: and for answer, it may be faid, that it is metaphorically so termed the word originally fignifiing a litle head. For this companie or corporation is a kinde of head, not onely to rule and gouerne the dioces in the vadatio of the Bishoprick, but also in many things to advife the Bishop, when the See is full. See Panormitan.in ca. capitulum. extra de rescriptis.

Charta perdonationis se defendendo, is the forme of a pardon for slaying another in a mans owne defence. Register. original.

fo. 287.

Charta perdonationis vtlagaria, is the forme of a pardon for a man that is outlawed. Reg. orig. fo. 288.

Charter (charta) commeth of the French (chartres. i. instrumen. ta) It is taken in our lawe, for written evidence of things done betweene man and man, whereof Bracton lib. 2. ca. 16.num.1. saith thus: Finnt alignando donationes in scriptis, sient in chartis, ad perpetuam rei memoriam. propter brevens hominum vitam. es. & a litle after:nu. 12. Et sciendum, quod chartaru alia regia, alia privatorum; & regiarum alia privata, alia communis, & alia vniner salis. Item prinatorum, alia de puro feoffamento & simplici, alia de feoffamento conditionali sive conventionali: & secundum omnia genera feoffamentorum sieri potest. Item privatorum alia de recognitione pura vel conditionali. Itemalia de quiete-clamantia: Item alia de confirmatione, oc. and fo thorough the chapter. Britton likewife in his 3 9. chapter, diuideth charters into the charters of the King, and charters of private persons. Charters of the King are those, whereby the King paffeth any graunt to any person or more, or to any bodie politique: as a charter of exemption that a man shall not be empaneled vpon any Iurie. Kitchin. fo. 114. & fo. 177. charter

of pardon, whereby a man is forgiuen a felonie, or other offence committed against the Kings crowne and dignitie . Broke. tit. charter of purdon. Charter of the forest, wherein the lawes of the forest are comprised.anne.9. H. 3. Cromptons Turifd. fo. 147. Pupilla oculi. parte. 5.ca. 22. Mammood. parte.1. of his forest lawes, fo. i. where he setteth downe the charters of of Canutus. and fo. 17. where he hath fet downe that which was made.anno 9. H. z. with the charter of the forest which we vie, M. Skene faith, that the lawes of the forest in Scotland doe agree. de verbo. signif. verbo. Venison. Charter of land. Broke. eodem titulo. That which we call a charter, the Lombards in libris feudalibus, call praceptu (praceptionem) Hotama. verbo praceptu in verbis feudalibus. Of these charters you haue also a long discourse in Fleta.li.z.ca. 14. who expoundeth euery substantiall part of a deede of gift particularly in or-

Charter land, (terra per chartam) is such sa a man holdeth by charter, that is, by euidence in writing; otherwise called free-hold. anno 19.H.7.ca. 13. and Küchin fo.86.8 these in the Saxons time, were wont to be called (bockland) Idem. fo. 89. and Lamberd in his explication of Saxon

words . verbo Terra ex loripto which was held, as he there faith, with more commodious & eafier conditions, then (folkland) was: that is land held without writing. And the reason he giueth, because that was hareditataria, libera, atá immunis: whereas fundus sine scripto consum pensitabat annuum, at g officiorum quadam servitute est obligatus. Prioreviripleruna nobiles atque ingenui, posteriorem rustici fere & pagani possidebant. Illam nos vulgo freehold & per chartam hanc ad voluntatem domini appellamus. Thus farre M. Lamberd.

Charter partie (charta partita) is nothing but that which we call a paire of indentures, conteining the covenants and agreements made betweene merchants, or fea faring men touching their marine affaires. anno 32. H. 8. cap. 14.

Chartis reddendis, is a writ, which lyeth against him that hath charters of feofment deliuered him to be kept, and refufeth to deliuer them. old.nat. br. fo.66. Register orig. fo. 159.

Chafe. See Chace. Charell. See Catell.

Channe medley (Information) commeth of 2 french words (chance.i.lapfus) and (mefler.i.mifcere) It fignifieth in our common lawe, the cafual flaughter of a man, not altogether without

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the fault of the flaver. Stawnf. pl.cor.li. s.ca. 8. calleth it homicide by misaduenture. West, calleth it homicide mixt.parte. 2. symbol. tstulo Indictments. lett. co. and there defineth it thus: Homicide mixt is, when the killers ignorance or negligence is joyned with the chaunce: as if a man loppe trees by an high way fide, by which many viually trauell, and cast dounc a bowe, not giving warning to take heede thereof, by which bowe one passing by is flaine: In which case he offendeth, because he gaue noe warning, that the party might haue taken heede to himselfe. See Skene de verbo: signifi. verbo Melletum.

Chaingeour, is an officer belonging to the Kings mint, whose function seemeth especially to consist, in exchanging coine for gold or filuer in the masse, brought in by merchants or others. anno 2. H.6.ca.12.

Church or chapell endewed with lands or other yearely revenewe, for the mantenance of one or moe priests, daily to sing masse for the soules of the donours, and such others, as they doe appointe. anno 37. H. 8. ca. 4. anno 1. Fd. 6. ca. 14.

Check rolle, seemeth to be a rolle or booke, that conteineth the names of such, as are atten-

dants and in pay to great perfonages, as their houshold fervants. It is otherwise called the chequer rolle. anno 2 4. H. 8.ca. 13. anno 3. H.7.ca. 13. & seemeeth to have one etymologie with eschequer. Which see.

Chevage, (cheuagium) com. meth of the French (chef.i. caput) It fignifieth with vs, a fumme of money paid by villeins to their Lords, in acknowledgment of their Saucrie. Whereof Bratton li.I.ca.10. faith thus : chevagium dicitur recognitio in signum subie-Etionis & dominis de capite suo. It seemeth also to be vsed, for a fumme of a mony, yearely given by a man to another of might & power, for his avowement, maintenance, and protection, as to their head or leader. M. Lamberds li. 2. ca. 5. errenarch. writeth it (chivage) or rather (chiefage)

Chevisance, commeth of the French (chevir. i. venir a chef de de quelque chose) to come to the head or end of a busines, to perfect a mater. This word is vsed for bargayning, anno 37. H. 8.ca. 9. & anno. 13. Eliza. ea. 5. & 8.an. 10. R. 2. cap. 1. & anno 3. H. 7. cap. 5.

Chief. See Capite.

Chiefe pledge (plegius, velvas capitalis) an. 20. H.6 ca.8. For the vnderstanding of this word, See Borowhead.

Childwit, commeth of the Saxon word (child), and (wit) which some say, in that tongue, is a termination of certain words without signification, as (dom) in (childehood) with vs. But for the signification of (wit) see Bloodwit) Childwit signifieth a power to to take a fine of your bondwoman begotten with child without your consent. Rastall. exposit. of words.

Chimin, (chiminus) commeth from the French (chemin i. aditus, via) and fignifieth in our common lawe, a way. It is divided into two forts: the Kings high way, and a private way. Kitchin. fo. 35. The Kings highe way (chiminus regius) is that, by which the Kings Subjects, and all others vnder his protection, haue free libertie to passe, though the propertie of the foyle of each fide, where the way lieth, may perhaps belong to some prinate man. A way private is that, by which one man or more haue libertie to passe, either by prescription or by charter, through another mans ground. And this is divided into chymin in groffe, and chymin appendant. Kitchin. fo. 177. Chymin in groffe is that way, which a man holdeth principally and folely in it felfe: chimm apendant is that, which a man hath adioyned to some other thing as appertinent thereuto. For example, if a man hire a close or pasture, and couenat for ingresse and egresse to and from the faid close, through fome other ground, by the which otherwise he cannot passe. Or chimin in groffe may be that, which the Civilians call perfonall:as when one covenanteth for a way through another mans ground, for himselfe and his heires:chimin appendant, on the otherfide, may be that which they call reall: as when a man purchaseth a way through another mansground, for such as doe or shall dwell inthis or that house for euer, or be owners of fuch a maner.

Chiminage, (chimmagium) fignifieth a tolle for wayfarage thorough the forest. Cromptons. Iurisd. fo. 189. and Mannood. farte. 1. of his forest lawes. pa. 86. See Chimin. The Feudist's call it, pedagium. See Chimin.

Chirographer of fynes (chrographus finium & concordiarum) commeth of the greeke (xegoxagor) which figuifieth a wrighting of a mans owne hand, whereby he acknowledgeth a dept to another. It figuifieth in our common lawe, him in the common bench office, that ingroffeth fines in that court acknowledged, into a perpetuall record, afterthey be acknow-

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ledged, and fully paffed by those officers, by whome they are formerly examined; and that writeth and delivereth the indentures of them vnto the party. anno. 2. H. 3. cs. 8. and West Symbol: parte. 2. titulo, fines. fect. 114. & 129. Fitzb. nat. br. fo. 147. A. This officer also maketh two indentures, one for the buier, another for the seller; and maketh one other indented peece, containing also the effect of the fine, which he deliuereth ouer to the custos breumm, that is called the foote of the fine. The Chirographer also, or his debuty, doth proclaime all the fines in the court enery tearme, according to the Statute; and then repayring to the office of the custos breuium, there indorseth the proclamations ypó the backfide of the foot thereof: and alwaie keepeth the writ of conenant, as also the note of the fine.

Chivage. See Chevage.

commeth of the French (chevalier, i. eques) and fignificath in our common lawe, a tenure of land by knights scruice. For the better vinderstanding whereof, it is to be knowne, that there is noc land, but is holden mediatly or immediatly of the Crowne, by some service or other : and therfore are all our free-houlds that are to vs and our heires, called (fends) feele, as proceeding fro the benefit of the King for fome small yearely rent, and the performance of fuch services as originally were laid voon the land at the donation thereof. For as the king gaue to the great Nobles his immediat tenents, large possessions for ever, to hold of him for this or that rent and feruice: fo they againe in time parcelled out to fuch as they liked. their lands fo received of the kings bountie, for rents and feruices, as they thought good. And these services are all by Litleton dinided into two forts: chivalry. and focage. The one is martiall and military, the other clownish and rusticall. Chivalrie therefore is a tenure or feruice, whereby the tenent is bound to performe some noble or military office vnto his Lord, and is of two forts: either regall, that is, fuch as may hold onely of the king or fuch as may also hold of a common perion, as well as of the king. That which may hold onely of the King, is properly called fervitium, or fergeantia: and 152gaine dinided into grand or jetit, i. great or fmall. Great, commonly called grand sergeantie, is that where one holdeth lands of the King by service, which hee ought to doe in his own perfon vato him as to beare the kings baner,

baner or his speare, or to leade his hoaft, or to be his Marshall, or to blow a horne, when he feeth his enemies invade the land, or to find a man at armes to fight within the foure Seale, orelse to do it himselfe, orto beare the kings fword before him at his coronation, or at that day to be his fewer, caruer, butler, or chamberlaine. Litleton tit. Sergeantie. Petit Sergeantie, is where a man holdeth land of the king, to yeeld him yearely some small thing toward his warres, as a fword, dagger, bowe, knife, speare, paire of gloues of maile, a paire of fours, or fuch like. Litleton. titulo petit Sergeanty. Chivalry, that may hould of a common person as well as of the king, is called (scutagium) escuage, that is seruice of the shield. And this is either vncertaine or certaine. Efcuage vncertaine is likewise twofold : fieft, where the tenent by histenure, is bounde to follow his lord going in person to the kings wars against his enemies, either him felfe, or to fend a fufficient manin his place, there to be maintained at his coll fo many daies, as were agreed upon betweene the lord and his first tenent at the graunting of the fee. And the daies of fuch fervice feeme to have bene rated by the quantity of the land so houlden:

as if it extend to a whole knights fee, then the tenent was bounde thus to follow his lord fourty dayes. And a knights fee, was fo much land, as in those dayes was accoumpted a sufficient living for a knight : and that was 680 acres, as some opinion is, or 800 as others thinke : or 15 pounds per annum. Camdens Brittan. pa. 110.in meo. S. Thomas Smyth fayeth, that census equestris is 40. poundes revenew in free lands. If the law extend but to halfe a knights fee, then the tenent is bounde to follow his lord, as a. boue is said, but twenty daves. If to a fourth part, then ten daies. Fitzb. nat. br. fo. 83. C. & 84. C. E. The other kinde of this escuage vncertaine is called castelward: where the tenent by his land is bound, either by him selfe, or by some other, to defend a castell, as often as it shall come to his course. Escuage certaine, is where the tenent is fet at a certaine summe of money, to be paide in heu of such vncertaine feruice, as that a man shall yerely pay for a Knights Fec, 20. shillings, Stow annal. pag. 238. for halfe a Knights Fee, tenne shillings, or some like rate. And this seruice, because it is drawne to a certaine rent, groweth to be of a mixt nature : not meerely focage, for that it finelleth not of the plough, and yet fo cage in effect:

effect being now neither perfonall feruice, nor vncertaine, Litleton titulo Socage. This tenure called chiualty. hath other conditions annexed vnto it: as homage, fealty, wardship, reliefe, and mariage. Bracton. li. 2.ca. 27. which what they fignifie, looke in their places. Chilmalry is either generall or especiall. Dier. fo. 161. nu. 47. Generall feemeth to be . where only it is faid in the feofment, that the tenent houldeth per serustium militare, without any specification of fergeanty, escuage, &c. Speciall that which is declared particularly what kinde of knights feruice he houldeth by.

Chorall, (choralis) seemeth to be any that by vertue of any of the orders of Clergie, was in auncient time admitted, to sit and serue God in the Quier, which in Latine is tearmed

Chorus.

:Both

Chose, (res) is the French word as generall as (thing) is with ys. It is in the common lawe, vied with divers epithites worthie the interpretation: as, chose locall, is such a thing as is annexed to a place. For example: a mill is chose locall, Kutchin fol. 18. Chose transitorie, in the same place seemeth to bee that thing which is moveable, and may be taken away, or carried from place

to place. Chose in action, is a thing incorporeall, and onely a right: as an annuitie, an obligation of debt, a coucnant, or vowcher by warrantie. Broke titulo. Chose in action. And it seemeth, that chose in action, may be also called chose in suspence, because it hath no reall existence or being, neither can be properly sayde to bee in our possession. Broke ibid.

Churchwardens (Ecclesiarum gardiani) be Officers yearely chosen, by the consent of the Minister and parishioners, according to the custome of euery feuerall place, to looke to the church, church-yard, and fuch things, as belong to both, and to obserue the behauiours of their parishioners for fuch faults as appertaine to the iurisdiction or censure of the court ecclesiasticall. Theie be a kind of corporation, inabled by lawe, to fue for any thing belonging to their church, or poore of their parish. See Lamberd in his pamphlet of the duty of Churchwardens.

Churchesset, is a word that I find in Fleta. lib. 1. cap. 47 in sine. whereof he thus writeth: Certam mensuram bladi tritici significat, quam quilibet olim santte Ecclesse die Santti Martini tepore tam Britonum quam Anglorum contribuerunt. Plures tamen magnates, post

Roma-

Romanorum adventum, illam contributionem (ecundum veterem legem Moy si nomine primitiarum dabant: prout in breviregis Knuti, ad Summum Pontificem transmisso, continetur, in quo illam contributionem, (chirchsed) appellant, quasi semen Ecclesia.

Cinamom(cinamomum) is a tree, whereof the barke is knowne to be a pleasant, comfortable, and medicinall spice, which you have described in Gerards Herball. lib. 2 cap. 142. This is reckoned among garbleable spices, an. I. Iac. cap.

19.

Cinque portes (quinque portus) be those speciall havens, that lye toward Fraunce, and therfore haue bene thought by our kings, from time to time, to be fuch, 25 ought most vigilantly to be observed against invasion. In which respect, the places where they be, have an especiall gouernor or keeper, called by his office Lord Warden of the Cinque ports: and divers priviledges graunted vnto them, as a particular jurisdiction, their Warden having the authoritie of an Admirall among them, and fending out writs in his owne name. Crompton in his Iurisdictions, fol. 28. nameth the Cinque ports , Doner , Sandwich , Rye, Haftings, Winchelfen, Rumney, Hithe: whereof fome, because the number exceedeth five, mult either be added to the first institution, by fome later graunt, or be accompted as appendents to some of the rest. See Gardein of the Cinque ports : and the Statute anno 32. H. S. cap. 48.

Circuit of action, (circuitus a-Ctionis) is a longer course of proceeding, to recouer the thing fued for, then is needfull. See the

new Tearmes of lawe.

Circumstantibus, is a word of art, fignifying the supply or mal king vp of the number of lurors, (if any empaneled appeare not, or appearing, be chalenged by either partie) by adding vnto them so many other of those that are present or standing by, as will ferue the turne, v. ann. 35. H. 8. cap. 6. and anno 5. Elizab. CAP. 25. 1 June on yet firmandes

Citie (croitas)commeth of the French (eite) and fignificth with vs, as it doth in other regions, fuch a towne corporate, as hath a Bishop and a eathedrall church. For Lucas de Penna lege vnica, tituli, De Metropol. Beryto. ti. 21. lib. 10. Cod. hath these words: Idem locus, vrbs, civitas, & eppidum appellatur. (Pro quo est etiam infra. De spectaculis. 1. Nemo.) Civitas enim dicunr, quatenus cum institia & magistratuum ordine gubernatur, oppidum, quatenus est ibi copia incolarum: & vrbs, quatenus muris debite more cingitur. Proprie antern

distitur civitas que leabet Episcopi. Supra de Episcop. & Cleri. I. Nulli. Alias dicitur generaliter emnis babitatio plurimorum, qua muro cingitur. w. de verb. fignif. lib. 2.69 de penu lega. l. Nam quod. S. Si ita. Sed Stricte loquendo, si Episcopo caret. dicitur urbs. w. de verb. fignif. 1. Pupillus. S. Oppidum, &c. Yet M. Crampton in his Iurisdictions, where he reckoneth vp the cities, leaueth out Elye, though it haue a bishop and a cathedrall Church, and putteth in Westminfer, though now it have no bishop. And anno 25. Eliza. ca. 6. Westminster is called a citie, anno 27. einsch. cap. 5. Of the Statutes not printed, it is alternatively tearmed a citie or borow. It appeareth by the Statute, 35.H. 8 cap. 10. that then there was a bishop of Westminster. Civitas, according to Aristotle, lib. 3. politicorum.ca. pri. is defined to be a certaine or vniforme gouernment of the inhabitants. & Cafar cinicatem vocat populum eodem iure otentem. Camd. Brittan. pa. 3 10. But this is the generall definition of a common wealth, and not of a city, at the least, as we now a daies particularly take it. For over and beside that which saboue faide, Cassaneus in consuetudi. Burg. pa. 15. Saith, that France hath within the teritories of it, 104 cities, and go ueth reason of this his saying,

because there be there so many seates of Archbishops and

bishops.

Clack, as to clack, force, and bard, aluis, beard good wools.

anno. 8. H. 6. ca. 22. whereof the first, viz. to clack wooll, is to cut of the sheepes marke, which maketh it to waigh lesse, and so yeld the lesse custome to the king, to force wooll, is to clip of the vpper and more heary part of it, to bard or beard it, is to cut the head and necke from the rest of the sleece.

Clamea admittenda in itincre per Atturnatum, is a writ whereby the king commandeth the Justices in eyre to admitte of ones claime by Atturney, that is employed in the kings feruice, and cannot come in his owne perfon. Regist. orig. fol. 19.b.

Clayme (clameum) is a chalenge of interest in any thing that is in the possession of another, or at the least out of his owne: as, claime by charter, clayme by descent, old nat. br. fol. 11. Si dominus infra annum clameum qualitercunque apposueri: Braston, lib. 1. cap. 10. See the definition & diucts forts of claime in Plowden. Casa Stowel. fol. 359.a.

Clarentius. See Herald.

Glergie (clerus, clericatus) is dicerfly taken : formetime for the whole number of those, that are

de Clero domini) of the Lords lot or share, as the tribe of Leuy. was in Indea: fome time for a plee to an indictment, or an appeale, and is by Stampf.pl.cor. 1.2. ca.41. thus defined. Clergie is an auncient liberty of the church, which hath bene confirmed by divers parlaments, and is, when a priest, or one within orders, is arraigned of felony, before a feculer judge, he may pray his clergie. which is as much, as if he prayed to be deliuered to his ordinarie, to purge him felfe of the offence objected. And this might be done in case of murder. Coke. li. 4. fo. 46. a. This liberty is mentioned in articulis cleri. anno. 9. Ed. 2. ca. 16. and what persons might have their clergy, and what not, see Stammf. pl. cor. li. 2. ca. 42. & 43. Howbeit there be many statuts made sithence he writ that booke, wherby the benefite of clergy is abridged.as anno. 8. El. ca.4. anno. 14. einsdem. ca. 5. anno. 18. einsd. cap. 4.6.7. & anno 23. eiusa. cap. 2. a. 29. eiufd. c. 2. anno 31. eiufd. ca. I 2. a. 39. emfd. ca. 9. 6 ca. 15. Of this fee Cromptons Iustice of peace, fo. 102. 103. 104. 105. and Lamberds Eirenarcha, li. 4. ca. 14. pa. 543. And note by the way, that the auncient course of the law in this point of clergy, is much altered. For by the flatute anno. 18. Eliza. ca. 7. clerks be no more deliuered to their

ordinaries to be purged, but now every man, though not within orders, is put to reade at the barre, being founde guilty, and convicted of fuch felonie as this benefit is still granted for: and so burnt in the hand and set free for the first time, if the ordinaries commissioner; or depute standing by do say: (legat vt clericus) or otherwise suffereth death for his transgression.

Clerico addmittendo, is a writ directed to the bishop, for the admitting of a clerk to a benefice vpon a (Ne admittas) tryed & founde for the party that procureth the writ. Regist. orig. fo. 21.6.

Clerico capto per statuiu mercatorum, & c. is a writ for the deliuery of a clerk out of prison, that is imprisoned upon the breach of a statut merchant. Register orig. fo. 147.

Clerico conuicto commisso gaola in defettu ordinarii deliberando, &c. is a writ for the deliuery of a clerk to his ordinary, that formerly was conuicted of felony, by reason his ordinary did not chalenge him according to the priviledge of clerks. Register.orig. fo. 69. a.

Clerico infra sacros ordines constituto non elegendo in officium, is a writ directed to the baylifs, &c. that have thrust a bayliwick or bedelship vpo one in holy orders, charging them to release him a-

P 1 gaine.

gaine. Register orig. fo. 187. b. Clerk. (clericus) hath two fignifications : one, as it is the title of him, that belongeth to the holy ministery of the church, that is (in these daies) either minister, or deacon, of what other degree or dignity focuer: though according to former times, not only sacerdotes & diaconi, but also, subdiaconi, canteres, acolyti, exorcifta, & oftiaris were within this accoumpt, as they be at this daye, where the canon law hath full power. And in this signification, a clerk is either relegious (otherwise called regular) or secular. anno. 4. H. 4.ca. 12. The other fignification of this word, noteth those, that by their function or course of life, practise their penne in any court or other wife; as namely, the clerk of the rolles of parliament, clerks of the Chancery, and fuch like, whose peculiar offices I purpose to fet downe in order, according to that knowledge that I could procure of them.

Clerke of the parlament rolles, (clericus rotulorum Parlamenti) is he that recordeth all things done in the high court of Parlament, and engrosseth them fairely into parhement rolles, for their better keeping to all posteritie. Of these there be two, one of the higher, another of the lower or common house, Cromp-

rep. Anglor. pag. 38. See also Vowels booke touching the order of the Parlament.

Clerke of the crowne in the chacerie (clericus Corone in Cancellaria) is an officer there, that by himselfe or his deputie, is continually to attend the Lord Chanceler, or Lord Keeper, forfpeciall matters of estate by commission, or the like, either immediatly from his maiestie, or by order of his priuy councell, as well ordinary as extraordinary. viz. commissions of lieuetenancies, of Iustices errant, and of affifes, of over and terminer, of gaol deliuery, of the peace, and fuch like, with their writs of affociation, and dedimus potestatem, for taking of oathes. Also all generall pardons vpon graunts of them at the kings coronation, or at a parlament, where he fitteth in the higher house at the Parlament time; the writs of parlament, with the names of knights and burgeffes, which be to be returned into his office. He hath also the making of all speciall pardons, and writs of execution, vpon bonds of statute of the Staple forfeited: which was annexed to his office in the raigne of Queenc Mary, in confiderarion of his continuall and chargeable attendance: both these before being common

for

for enery courfitour, and clerk of court to make.

Clerk of the Crowne (clericus Corone) is a clerk or officer in the Kings bench, whose function is to frame, reade, and record all indictments against traitours, selons, and other offenders there arraigned upon any publique crime. He is otherwise termed Clerke of the Crowne office. And anne. 2. H. 4.ee. 10. he is called clerk of the crowne of the kings bench.

Clerk of the extreates (elericus extractorum) is a clerk belonging to the exchequer, who termely receive the the extreats out of the Lord treasurers remembrancer his office, and writeth them out to be levied for the king. He also maketh ceduls of such summes extreated, as are to be dischar-

ged.

Clerk of affife (clericus affifa) is he, that writeth all things iudicially done by the Iustices of affife in their circuits. Cromptons In-

rifd fo. 227.

Clerke of the pele (clericus pellis) is a clerk belonging to the exchequer, whose office is, to enter eucry tellers bille into a parchement rolle called (pellis receptorum) and also to make another rolle of paiments, which is called (pellis extuum) where in he setteth downe, by what warrent the monie was paid.

Clerk of the warrants (clericus marrantorum) is an officer belonging to the court of common plees, which entreth all warrants of atturney for plantiffe and defendant, and enrolleth all deedes of indentures of bargaine and fale, which are aeknowledged in the court, or before any judges out of the court . And he doth extreate into the exchequer, all iffues, fines, and amercements, which growe due to the king any way in that court, and hath a standing fee of ten pound of the king, for making the same extreats. See Fitzh.nat.br.fo.76.

in prin.

Clerk of the petit bagge (clericus parvabague) is an officer of the chawncerie, of which fort there be three, and the master of the Roles their cheife. Their office is to record the returne of all inquisitions out of euerie shire, all liveries granted in the courte of wardes, all ouster les mains, to make all patents of customers, gawgers, controllers, and aulnegers, all conge d'eslires for Bishops, all liberateis vpon extents of statutestaples, the recouerie of Recognisances forfeited, and all Elegits vpon them, the fummons of the nobilitie, clergie, and burgeses to the Parlament; commisfions directed to knights and other of every shire for feasing of the subsidies. Writs for the

P 2

nomi-

nominations of collectours for the fiftenthes, and all traveries vpon any office, bille or otherwife, and to recieue the money due to the king for the same. This officer is mentioned.

Clerk of the Kings great wardrobe (clericus magna garderoba
regis) is an officer of the Kings
house, that keepeth an account
or Inventarie in writing, of all
things belonging to the kings
wardrobe. This officer is mentio-

ned. anno 1. Ed.4.ca. 1.

Clerk of the market (clericus merketi) is an officer of the kings house. anno 1. Ed. 4. cap. 1. & anno 1 3.R.2. ca.4. whose dutie is to take charge of the kings measures, and to keepe the standards of them, (that is) the examples of all the measures that ought to be through the land: as ofelns, yards, lagens, as quarts, pottels, gallons, &c. of weights, bushels, and such like, and to see, that all measures in everie place, be answerable vnto the faid Standard, Flora. li. 2.ca. 8.9.10. 11.12. of which office, as also of our diversitie of weights and measures, you may there finde a treatife worth the reading. Britson also in his 30. chapter faith in the Kings person, to this effect. we will that none have measures in the realme but we our felues: but that every man take his meafures and weights from our standards: and so goeth on with a tractat of this mater, that well sheweth the auncient law and practise in this poynt. Touching this officers dutie, you have also a good statut. anno 13. R. 2.

Clerk of the Kings filuer (clericus argenti Regis) is an officer belonging to the court of common plees, vnto whome eueric fine is brought, after it hath beene with the custos brevium, and by whome the effect of the writ of couenant is entred into

writ of couenant is entred into a paper booke; and according to that note, all the fines of that terme are also recorded in the rolles of the court. And his entrie is in this forme: He putteth the Shire ouer the margen, and then saith. A. B. dat domino regidmidiam merkam (or more, according to the value) pro liventia con-

cordandi. C. cum C. D. protalibus

terris, in tali villa, & babet chro-

graphum per pavem admissum &c.

Clerk of the peace (clericus pacis,) is anofficer belonging to the fessions of the peace. His dutie is, in the sessions to reade the endictments, to enrolle the acts, and drawe the process to record the proclamations of rates for servants wages, to enrolle the discharge of apprentices, to keepe the counterpaine of the indenture of armour, to keepe

the

the register booke of licences, given to badgers and laders of corne, & of those that are licensed to shootein guns, & to certify into the kings bench transcripts of indicaments, outlawries, artainders, and convictions had before the Iustices of the peace, within the time limited by statute. Lamberds einenarcha, li. 4. ca. 3. fo. 379.

Clerk of the signet (elericus signetts) is an officer attendant continually on his maiesties principall secretary, who alwaies hath the custodie of the principalities, as well for sealing his maiesties prinate leters, as also such graunts as passe his maiesties hands by bill assigned. Of these there be sower that attend in their course, and have their diet at the Secretaries table. More largely you may reade of their office, in the statute made anno 27.H.8.ca.11.

Clerk of the primie scale (clericus primati sigilli) is an officer (whereof there be soure in number) that attendeth the Lord keeper of the primie scale, or if there be none such, ypon the principal Secretarie, writing and making out all things that be sent by warrant from the signet to the primie scale, and are to be passed to the great scale; as also to make out (as they are tearmed) privie scales, ypon any

especiall occasion of his maiesties affaires; as for loane of mony, or such like. Of this officer,
and his function, you may read
the statute anno.27. H. 8. ca. 11.
He that is in these daies called the
Lord keeper of the privie seale,
seemeth in auncient time to have
beene called clerke of the privie
seale, and to have beene reckoned in the number of the great
officers of the realme. Read the
statute. anno. 12. R. 2. ca. 11.

Clerk of the Iuries or iurata writs (clericus iuratorum) is an officer belonging to the court of the common plees, which maketh out the writs called (habeas corpma) and (distringus) for appearance of the lurie, either in court or at the assisted the Iurie or panell is returned upothe (venire facius). He entreth also into the rols the awarding of these writs, and maketh all the continuance from the going out of the (habeas corpora) untill the verdict be given.

Clerk of the pipe (clerious pipe) is an officer in the kings exchequer, who having all accounts and debts due to the king delivered and drawne downe out of the Remembrancers offices, chargeth them downe into the great rolle: who also writeth sumons to the Shyreeue, to levie the said debts upon the goods and catels of the deptors: and if

P 3

they have no goods, then doth he drawe them downe to the L. treasurers remembrancer, to write extreats against their lands. The awncient revenew of the Crowne, remaineth in charge afore him, & he seeth the same answered by the fermers & shyreeues to the King. He maketh a charge to al Shyreeues of their summons of the pipe and greenwax, and seeth it answered vyon their accompts. He hath the drawing and ingrossing of all leases of the Kings land.

Clerk of the hamper or hanaper (clericus hanapery) is an officer in chawnceric, anno 2. Fd. 4.ca. 1. otherwise called warden of the hamper, in the same statute, whose functio's, to receive al the mony due to the kings maiestie, for the seales of charters, patets, commissions, and writs, as also feese due to the officers for enrolling & examining the fame, with such like. He is tied to attendance on the lord Chanceler, or lord keeper, daily in the terme time, and at all times of fealing:hauing with him leather bags, wherein are put all charters, &c. after they be sealed by the Lord Chanceler, and those bags being sealed up with the lord Chancelers private scale, are to be deliuered to the controller of the hanaper, who vpon recéipt of them, doth as you shall

reade in his office. This hanaper representeth a shadowe of that which the Romanes termed (fifcum) that conteined the Emperours treasure.

Clerk of the plees (clericus placitorum) is an officer in the exchequer, in whose office all the officers of the court (vpon especiall priviledge belonging vnto them)ought to siew or be siewed

vpon any action.

Clerk of the treasurie (clericus the (auraria) is an officer belonging to the common plees, who hath the charge of keeping the records of the courte, and maketh out all the records of Nin prins, hath the fees due for all fearches, and hath the certifing of all records into the the kings bench, when a writ of errour is brought; and maketh out all writs of (Supersideas de non mole-(tando) which are graunted for the defendants, while the writ of errour hangeth. Also he maketh all exemplications of records being in the treasurie. He is taken to be the fervant of the chiefe Iustice, and remoueable at his pleasure: whereas al other of. ficers are for terme of life. There is also a Secondarie, or under clerk of the treasurie for assistance, which hath some allowances. There is likewise an vnder keeper, who alway keepeth one key of the treasury doore, & the chiefe

chiefe clerke of the Secundarie another: so the one cannot come in without the other.

Clerk of essines, (clericus essonierum) is an officer belonging to the courte of common plees. who onely keepeth the essoines rolle, and hath for entring everie essoine, fixe pence, and for every exception to barre the effoine in case where the partie hath omitted his time, fixe pence. He hath also the providing of parchment, and cutting it out into rols, and marking the numbers vpon them, and the deliuerie out of all the rols to euerie officer. and the receiving of them againe, when they be written, and the binding and making vp of the whole bundels of euerie terme: and this he doth as feruant to the cheife Iustice. For the cheife Iustice is at charge for all the parchemet of all the rols.

Clerk of the outlawries, (clericus vilagariarum) is an officer belonging to the court of common plees, being onely the feruant or deputie to the kings atturney generall, for making out the writs of (capias vilagatum) after outlawrie. And the kings atturne is name is to euerie one of those writs. And whereas seuen peace is paide for the seale of everie other writ betwixt partie & party, there is but a peny paid for the seale of this writ, because it goeth our at the Kings suite.

Clerk of the sewers, (clerunas sucrarum) is an officer apperteining to the commissioners of sewers, writing all things that they doe by vertue of their comission, for the which See Sewers: and see the statute anno 13. Elizabe.ca.o.

Clerk controller of the kings house, (whereof there be two) is an officer in court, that hath place and feate in the compting house and authoritie to allow or difallow the charges and demands of pursuivants or messengers of the greene cloth, purvciours, or other like. He hath also the ouerfight and controlling of all defaults, defects and miscariages of any the inferiour officers, and to fit in the counting house with the superiour officers, viz. the L. Steward, treasurer, controller and coferer, either for correcting or bettering things out of order; and also for bringing in country provision requisite for the Kings houshold: and the cenfure for fayling of cariages and carts warned & charged for that purpose. This officer you have mentioned. anno. 3 3. H.S. ca. 12.

Clerk of the Nibils (clericus mhilorum) is an officer in the Exchequer, that maketh a rolle of all fuch summes, as are nihiled by the shyrceues vpon their eftreats of greene waxe, and dili-

vereth

vereth the same into the Lord treasurers remembrancer his office, to have execution done vp-

on it for the king.

Clerk of the check, is an officer in court, so called, because he harh the check and controlment of the yeomen of the gard, and all other ordinary yeomen and huiffiers belonging either to his maiesty, the Queene, or Prince, either giving leave, or allowing their absences or defects in attendance, or deminishing their wages for the fame. He also nightly by himselfe or depute, taketh the view of those that are to watch in the court, and hath the setting of the watch. This officer is mentioned. anno. 33. H. 8.ca. 12.

Clerk marshiall of the kings house, seemeth to be an officer that attendeth the marshiall in his court, and recordeth all his proceedings, anno 33. H. 8.cap.

Clothe of raye.anno 27.Ed. 3.sta.

1. CAP. 4.

Close, is an unlawfull game forbidden by the statute, anno 17. Ed. 4. cap. 3. which is casting of a bowle at nine pinnes of wood, or nine shanke bones of an oxe or horse.

Clove is the 32. part of a weigh of cheese i. 8. pound, anno 9. H. 6. cap. 8.

Cloues (caryophylle) are a spice

knowne by fight to enery man. They be flowers of a tree called (caryophyllus) gathered and hardened by the Sunne. Of their nature you may reade in Gerards Herball. lib. 3. cap. 144. This is coprifed among such spices, as be to be garbled, anno 1. Iacob. cap.

Cocket (cokettum) is a sealeappertaining to the kings custome house, Regist. orig. fol. 192. a. & also ascrow of parchement sealed and deliuered by the officers of the custome house to merchants, as a warrant that their merchandize be customed, anno 11. H. 6. cap. 16. which parchment is otherwise called Isterade cokette, or litera testimoniales de coketto. Regist. vbi supra. fol. 179. a. So is the word vsed. anno s. o 6. Ed. 6. cap. 14, and anno 14. Ed. 3. stat. I. cap. 21. This word is also vsed for a distinction of bread in the statutes of bread & ale, made anno si. H. 2. where you have mention of bread coket, wastell bread, bread of trete, and bread of common wheate.

Coferer of the Kings houshold, is a principal officer of his Maichies court, next under the Controller, that in the counting house and elsewhere at other times, hath a speciall charge and oversight of other officers of the houshold, for their good demeasure and cariage in their offices, to all

which,

which one and other, being either Sergeants, Yeome, groomes, pages, or children of the kitchin, or any other in any roome of his Maiesties servants of houshold, and payeth their wages. This officer is mentioned. anno 39.Elixab. cap. 7.

Cogs anno 23. H. 8. cap. 18.

Conisour of a fine, is he, that passeth or acknowledgeth a fine in lands or tenemets to another: Cognifee is he to whom the fine is acknowledged, West . parte 2. symbol. titulo Fines. sett. 2.

Cognizance, commeth from the French (cognisance. i. intelligentia, intellectus, notio, cognitio,) with vs it is yfed diverfly : fome time fignifying a badge of a feruingmans sleeue, whereby he is discerned to belong to this or that Noble or Gentleman: fom-SWO time an acknowledgement of a fine, or confession of a thing donc: as cognoscens latro, Bracton. lib. 3. 11 act. 2. cap. 3. 20. 32. cognoscere se ad villanum. Idem lib. 4. orcal trastat. 3 cap. 16. As also to make 四 cognisance of taking a distresse: fomtime as an audience or heasefel ring of a mater iudicially, as to take cognisance: sometime a power or iurisdiction, as cognipult sance of plee, is an habilitie to 15, call a cause or pice out of ano-DUCT ther court: which no man can doe but the king, except he can thew charter for it. Manwood

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parte 1. Of his Forest lawes, pag. 68. See the new tearmes of the lawe, and the new booke of Entries, verbo, Conusance.

Cognatione. Sec Cosenage. Cognifour, fee Conifour.

Cognitionibus mittendis, is a writ to a Iustice, or other, that hath power to take a fine, who hauing taken knowledgement of a fine, deferreth to certifie it into the court of common plees, commanding him to certific it.

Regist. orig. 68. b.

Coin (cuneus, vel cuna) seemeth to come from the French (coin.i. angulus) which probably verifieth the opinion of such, as doe hould the auncientest fort of covne to be cornered and not round. Of this Lawyers Substantiue (cuna) commeth the Lawyers verbe (cunare) i. to coyne. Cromptons Iustice of peace fol. 220.

Coliander seede, or rather Coriander seede (Semen coriandri) is the seede of an herbe so called, medicinable and wholesome for divers good purposes, which see in Gerards Herball, lib. 2. cap. 379. It is numbred among the drugges that be to be garbled,

anno 1. Tacob cap. 19.

Collaterall (collateralis) commeth of the Latine (laterale) i. that which hangeth by the fide. Lateralia viatoria. v. de lega. O fideium, tertiol. 102. seeme to

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fignifie a budget or capcale to hang by a faddle pomel. Colleterall, is yfed in the common law. for that which commeth in, or is adhering of the fide: as, collaterall affurance, is that which is made ouer and beside the deede ir felfe. For example, if a man couenant with another, and enter bond for the performance of his couenant, the bond is termed collaterall affurance: because it is externall, and without the nature and essence of the couenant. And Crompton in his Turifd. fol. 185. faith, that to be subject to the feeding of the kings Deere, is collateral to the foyle within the Forest. In like maner may we fay, that the libertie to pitche boothes or Randings for a Faire in another mans ground, is collaterall to the ground. The private woods of a common person within a Forest, may not be cut without the kings licence. For it is a prerogatine collaterall to the foyle. Manwood parte 1. of his Forest lawes, pag. 66. Collaterall warrantie. See Warrantie.

Collation of a benefice (collation beneficii) fignifieth properly the bestowing of a benefice by the Bishop, that hathit in his owner gift or patronage: and different from Institution in this, for that Institution into a benefice, is performed by the Bishop at the

motion or presentation of another, who is patron of the same, or hath the patrons right for the time. Extra de Instautionibus. Go De concessione prabendarum. Go. And yet is collation vsed for presentation. anno. 25. Ed. 3. stat. 6.

Collatione falla vni post mortem alterus, &c. is a writ directed to the Institutes of the common plees, commanding them to direct their writ to a Bishop, for the admitting of a clerk in the place of another presented by the king, that during the suit betweene the king and the Bishops clerk, is departed. For judgment once passed for the kings clerk, and he dying before he be admitted, the king may bestow his presentation upon another, Register org. so. 31.6.

Collatione heremitagii, is a writ whereby the king conferreth the keeping of an ermitage vpon a clerk. Register orig. fo. 303

308.

Colour, (color) fignifieth in the common law, a probable plee, but in truth false, and hath this end, to draw the triall of the cause from the lury to the Iudges. Of this see two apt examples in the author of the new tearms. Verbo Colour, who also referreth you to the Doctor and student so. 158. Gr. See Broke tit. Colour in assis, trespas &c.

fo. 140.

Collusion, (collusio) is in our common law, a deceitfull agreemet or compact between two or more, for the one party to bring an action against the other to some euill purpose; as to defraude a third of his right, &c. See the new tearms. and Broke titulo. Collusion. See also one case of collusion in the Register orig.

fo. 179. a.

Combat, (duellum) is a french word fignifing as much as (certamen, decertatio, dimicatio, discrimen, pralium, pugna) but in our common law, it is taken for a formall triall of a doubtfull cause or quarrell, by the fword or baftons of two champions. Of this you may reade at large both in diuers civilians, as Paris de Puteo, de remilitari & duello. Alciat de duello, Hotomam disputatio. feudalium. ca. 42. and others: as also in our common lawyers of England, namely Glanuile. li. 14. ca. I. Bracton.li. 3. tracta. 2. ca. 3. Britton ca. 22. Horns mirrour of Inflices li. 2. ca. des exceptions in fine proxime ante c. Iuramentii duelli. Dier. fo. 201. nu. 41. 6 42. That this also was aunciently the law of the Lombards, before they inuaded Italy (which wasabout the yeare of our Lord 571. appeareth by Sigonus, in his histotie De regno Italia. lib. 2 de Arivaldo rege. who there reporteth,

that the faid king, having put away his wife Gundeberga, vpon 2 furmise of adulterie with Tato Duke of Etruria, at the private suggestion of Adalulphus, a great man among the Lombards, and being charged by Clotharius the king of France his Ambassadors, of whose bloud she was, that he had done her wrong : he answered, that he had done her no wrong. Whereupon Anfoaldus one of the ambassadors replyed, that they would cafily believe him, if he would suffer the truth to be tried by combat, betweene some one of the Queens friends, and her accuser, according to the custome of the Lombards. And the king yeelding vnto this, Adalulphus was vanquished by one Pitto, otherwise called Charles, fet foorth for the Queenes chapion, and the restored to her former place and honour.

Comin seede, alias, Cumin seed, (Semen cummi) is a feede brought foorth by an hearbe so called, which you may fee described in Gerards Herball, lib. 2. cap. 416. This is placed among the garbleable drugges, anno 1. Iacob.

cap. 19.

Comitatu commisso, is a writ or a commission, whereby the Shyrecue is authorized to take vpon him the swaye of the countie. Regist. orig. fol. 295. a. 6 b. and Cokes Reports. li. 3. fol. 72. a.

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Comitatu & castro commisso, is a writ whereby the charge of a countie, together with the keeping of a castell, is committed to the Shyreeue, Reg. org. fol. 295.4.

Commaundrie (praceptoria) was by some mens opinion, a maner or chiefe mesuage, with which lands or tenements were occupied, belonging to the Priorie of S. lohns in Hierusalem in England: and he which had the government of any fuch maner or house, was called the commaunder, who had nothing to dispose of it, but to the vse of the Priorie, taking onely his fustenance thence, according to his degree, and was vfually a brother of the same Priorie. Author of the new tearmes of lawe.verbo, Commundrie. By some other bookes it appeareth, that the chiefe Prior of S. Johns, was a comaunder of a Nunnerie, and costituted the Priores of the faid Nunnerie, who was under his obedience, and remoueable at his will, notwithstanding that shee had covent, and common feale, and had her possessions severall, and was wont to leafe the land for terme of yeares. Fulbecks Paralels, fol. 2. a. Of thefe commadries also Petrus Gregorius lib. de beneficiis cup. 11. mm. 11. hach these words: Preceptorie dista commenda sacrorum militum, veluti ordinis hospitalii Sancti Ioannis.

Hierosolymitani, beneficia quidem secundum quid Ecclesiastica dicuntur à Barbatia ad Clement. causam col. ; I. de Electione. Tamen non proprie dicuntur ex genere communumben chiciorum, eo quiod persone conferentes, ex quibus conferuntur. non funt laice vel eccle fiaftice, fed tertitordinis. De bis beneficis fit mentio cap. exhibita de pruilegiis. in extravag. com. in cap. Dudum. de decimis. These in many places of our realine are termed by the name of temples, because they fometime belonged to the Templers. Of these you reade ann. 26 H. 8 cap. 2. & anno 32. eiusa.ca 24. And of thefe the faid Gregorius Tolofanus.li.15. fui fyntagmatis. cap. 34. hath these words: Monumus superiori capite, crescente nuntero peregrinorum, iuxta Teplism Hierosolymitanum Xenodo. chium adificatum, tit. Dini Iohannis, quo exciperentur peregrini, quos canobia capere non possent. Huius ergo ministerio quoque viriti nobiles se devoverunt, qui & peregrinos tutarentur & à latronum seu Agarenorum incursus defenderent. Horum professio est votum solenne paupertatis, & abdicationis propriorum, castitatis, & obedientia. Proinde propter primum votum nibil proprii habent, vel habere debent, sed ascipiunt annonam, quam diu vivunt, vel preceptorias (quas vocant Commanderies) administrant, quam divens possident, & optione mutant, vel ex magistri licentia permutant reddituri morientes que apud eos reperietur, societati. Os these Corasins in his paraphrase Adsacerd. mit. parte prim. cap. 3. saith thus: Preceptorie Rhodienses, cum non nist fratribus Hierosolymitanis, atque ita personis ecclesiasticis conferantur, benesiciis ecclesiasticis annumerari merito debent.

Commaundement (praceptum) is ysed diversely in the common lawe: some time for the commaundement of the king, when vpon his meere motion, and from his owne mouth, he casteth any man into prison. Stawnf. pl.cor. fo. 72. or of the luftices. And this commadement of the Iuffices, is either absolute or ordinary: absolute, as when ypon their owne authority in their wisedome and discretion, they commit a man to prison, for a punishment: Ordinary is, when they commit one rather for fafe custody then punishment. And a man committed vpon an ordinary commandemet, is repleuifable.pl. cor. fo. 73. Comandement is againe vsed for the offence of him, that willeth another man to transgresse the lawe, or to doe any fuch thing, as is contrary to the lawe, as murder, theft, or fuch like. Bract. li. 3.tra. 2 ca. 19 And this the civilians call (mandatum) Angelus de maleficiis.

Commen (communia) commeth

from the french (commun. i. quod ad omnes pertinet) and figuifieth in our common lawe, that foile or water, whereof the vie is commontothis or that towne, or lordship; as common of pasture (communia pesture.) Bract. 1. 4. ca. 19.6 40. commen of fish. ing. communia piscaria. Idem.li. 2. ca. 34. commen of turbary.i. of digging turues (communia turbaria) Idem. ls. 4. ca. 41. comen of estouers (communia estouerio rum.) Kitchin. fo. 94. Comen, is deuided into commen in groffe, commen appendant, commen dopertinent, and commen per caufe de vicinage. i. by reason of neighbourhood. Comen in groffe, is a liberty to have comen alone (that is) without any land or tenement, in another mans land, to him selfe for life, or to him and his heires. And this is commonly paffed by decde of graunt or fpecialty. Old nat. br. fo. 31. 6 37. Common appendant and common appertinent, be in a maner confounded: as appeareth by Fitzh. nat. br. fo. 180. and be defined to be a liberty of common, appertaining to, or depending of fuch or fuch a freehould. Onely Kitchin. fo. 94. feemeth to make this difference, that he which hath commen appertinct, hath it without limitation of this or that kinde of beaftes: but that is controlled by Dyer. fo. 70. b.

mu. 10. He that hath commen appendant, hath it but for beaftes commenable, as horses, oxen, kine, and sheepe, being acompted fittest for the plowman : and not of goates, geefe and hogs. whereunto the author of the new reaams of law adderh ano. ther difference: which is, that common appertinent may be levered from the land, wherunto it is appertinent, but not common appendant. The originall of common appendant S. Ed Coke li. 4. fo. 37. thus expresseth: Common appendant, by the auncient lawe, had beginning in this maner, when a lord infeoffed another in erable lands, to hould of him in focage (ideft, per seruicium soca) as all tenure in the beginning (according to Litleton) was: the feoffee, to maintaine the service of his plough, had commo in the wasts of his lord, for his necessary beafts to gaine and compas his land: & that for two causes: one for that, as then it was taken, it was (tacite) implyed in the feofment, by reason the seoffee could not gaine or compas his land without catell, and catell could not be fultained without pafture. and so by consequent the feoffee had (as a thing necessary and incident) common in the wastes and land of the lord. And this appeareth by aunciet books

tempore. Ed. i. tit. common 24.6. 17. E. 2. tit. common. 23. 6. 20. Ed. 3. tit. Admesurement. 8, 6. 18. Ed. 3. and by the reherfall of the statute of Merton.ca.4. The second reason was for maintenance, and aduancement of tillage, which is much regarded and sauoured in the lawe, Thus farre S. Edward.

Commen per cause de vicinage is a libertie, that the tenents of one lord in one towne, have to common with the tenents of another lord in another towne. which kinde of common they that chalenge, may not put their catellinto the common of the other towne. For then they be distremable. But turning them into their owne fields, if they strey into the neighbours commen, they must be inffered. See the termes of lawe. Common of pasture the Civilians call ins compascendi, cum sc:plures ex municipipibus qui diversa pradia possidebant, saltum communem, et ius campascendubaberent, mercarentur. 1.7enul. T. si servit, vendicetur. It is also called ins compascuum. ibidem.

Commendam (commenda) is a benefice, that being voide, is comended to the charge & care of some sufficient clerk, to be supplied, vntill it may be conveniently provided of a pastor. And that this was the true or ginall of this practife, you may

read at large in Duarenus de lacris eccle fia ministeriis (beneficis li.s.ca.7. And whereas the gloffe, in verbo commendare in ca. Nemo deinceps: de electione. in sexto. defineth commendam ele ecclesia cu-Rodiam al icui commissam: Iobannes Andreas therevpon faith thus: huic definitioni necessario hac adicienda putem: in tempus gratid evidentis necessitatis & vtilitatis. Ida docum textus in dicto capite. Nemo. Corrassus in bis paraphrase de sacerdotiorum materia parte prima. ca.6.nu. 2.6 segg thus describeth the mater: In commendam concedieur beneficium , cum Romanus Pontifex, Legatus, aut Episcopus (Pleque enim inferioribus, qui ex privelegio aut alio iure pirituali conferent, concession est, ca. cum omnes basilica. I 6.quast. 7.) ecclesia vacantis custodiam alicui committit, administratorem generalem eius templi eum constituens, ca. nemo de electio in sexto. Commendare enim aliud est nibil, quam deponere.l. publius. n. depositi.l. comedare. n. de verb: (ionif.) Hoc aute, ad tempus sex mensium, & pro evidenuti necessitate aut vilitate ecclesia me lex permittit; (d. ca. Nemo.) Quae we commendat arius qui ecclesia vacantis & fructuum, ad tempus duntaxat oustodia babet, neo tenere beneficin, in ve habere in beneficio, aut canonicum titulum censebaur: vti mec depositarius in re deposita. whervo of also Petrus Gregorius de benefi-

ciis, ca. 10.mu. 13. thus writeth. In bac quarta divisione, potest adde tertium genus beneficii, quod citra pre-Criptionem qualitatis a persona alterius qualitatis quam beneficium exigat natura, possidetur, sed sins praudicionatura beneficio es per difpensationem eo commendato olim ad tempus certum certa persona, hodie, vt plerung, quim din commendatarius vixerit. Vocant hoc beneficium commendatum commendam: ut si regulare beneficium à Summo Pontifice conferatur nomine commede, seculari. Nam ideo non mutatur beneficii natura, nec fit ideo seculare, &c. And a little after, Interim annotabimus duplici de causa sieri commendam ecclesia, nempe vel in vilitatem ecclesia, vel commendatarii. In primo commenda titulum non dat beneficii commendatario, & dicitur potius custodia que revocari potest: guod repugnat nature beneficii, quod est perpetuum. In secundo autem casu beneficium censetur in villitatem commendatarii commeda fact a quam possidere petest quam du vixerit, &c.whome vou may alfo read.ca. 2.l. 1 3.

Commissarie (comissarius) is a title of coelesialical invisition, appertaining to such a one as exerciseth spirituall invisition (at the least, so farre as his commission permitteth him) in places of the dioces so farre distant from the cheise citie, as the chanceler cannot call the sub-

jects !

iects to the Bishops principall consistorie, without their to great molestation. This commissarie is of the canonitts termed commif-Carins or officialis for aneus. Lyndwoods provin.ca. I de accusatio.ver. 60. Mandatum archiepsscopi.in glos. and is ordeined to this especiall end, that he supply the bishops peristiction and office in the out places of the dioces, or els in such parishes as be peculiars to the bishop, and exempted from the jurisdiction of the Archdeacon. For where either by prescription or composition, there be archedeacons that have inrifdiction within their archdeaconries, as in most places they have, there this commissarie is but superfluous, and most commonly, doth rather vexe and disturb the country for his lucre, then of conscience seeke to redresse the lives of offenders. And therefore the Bishop taking prestation mony of his archdeacons yearely pro exteriori iurifdi-Etione, as it is ordinarily called, doeth by superonerating their circuit with a commissarie, not onely wrong archdeacons, but the poorer fort of subjects much more, as common practife daily teacheth to their great woe.

Comission, (commissio) is for the most part, in the vnderstanding of the common lawe, as much as (delegatio) with the Civilians.

(See Broke. titulo commission.) and is taken for the warrant or lerters patents, that all men exercifing jurisdiction either ordinarie or extraordinarie, have for their power to heare or determine any cause or action . Of these see divers in the tableof the Register originall. verbo. Com. missio. yet this word sometime is is extended farder, then to maters of judgement: as the commission of purveiours or takers. anno. II. H. 4. ca. 28. But with this epitheton (high) it is most notoriously vsed for the honourable commission court, instruted and founded vpon the statute I. Eliza.ca. I. for the ordering and reformation of all offences, in any thing appertaining to the jurisdiction ecclesiasticalle but especially such as are of higher nature, or, at the least, require greater punishment, then ordinarie jurisdiction can afford. For the world being growne to that loosenes, as not to esteeme the censure of excommunicatio, necessitie calleth for those cenfures of fynes to the prince and imprisonment, which doe affect men more neerely.

Commission of rebellion (Rommission rebellionis) is otherwise called a writte of rebellion, (breuerebellionis) and it hath vie, when a man after proclamation made by the Shyrecue vpon an order

of the channcerie, or court of Starre chamber, vnder penaltie of his allegance, to prefent himselfe to the court by a certaine day, appeareth not. And this commission is directed by way of commaund to certaine perfons, to this end, that they, or three, two, or one of them, doe apprehend, or cause to be apprehend, the party as a rebell and contemmer of the kings lawes. wherefocuer they find him within the kingdome, and bring him, or cause him to be brought to the courte, ypon a day therein affigned. The true copie of this commission or writ, you haue in , Cromptons divers Iurisdictions. Court de Starre chamber: as also in West. tractet. touching proceedings in Chancerie, Sectio 24.

commissioner (commissionarius) is he that hath commission, as leters patents, or other lawfull warrant, to execute any publike office: as commissioners of the office of fines and licenses. West. parte. 2 symbol: titulo Fines. sect. 106.commissioners in eyre.an. 3. Ed.1. ca. 26. with infinite such

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Committee, is he to whome the confideration or ordering of any mater is referred, either by some court, or consent of parties, to whome it belongeth. As in Parlament, a bille being read, is

either consented vnto and passed, or denied, or nether of both, but referred to the confideration of some certaine men. appointed by the house farder to examine it: who thereupon are called committees. Committee of the King West par. 2. symbo. titulo Chancerie fect. 144. This word scemeth to be something strangely ysed in Kitchin.fo. 160. where the widow of the kings tenent being dead, is called the comittee of the king that is, one committed by the auncient law of the land, to the kings care and protection.

Common bench (bancus communis) is vsed some time for the court of common plees. anno. 2. Ed. 3. ca. 11. So called, as M. Camden saith in his Britannia.pa. 113. quia communia placita intersubditos ex iure nostro, quod commune vocant, in hoc disceptantur, that is, the plees or controuersies tryed betweene common

persons.

Common fine (finis communis) of this Fleta hath these words: Quibus expeditis (speaking of the businesse finished by Instices in eyre) consueverunt Insticiarii imponere villatis, inratoribus, hundredis, & toti comitatui concelametum, & omnes separatim amerciare: quod videtur voluntarium, càm de periur o & concelamento non fuerint convicti, sed potius dispensandum

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effet cum eis quod animas in statera posuerint pro pacis conservatione. li. 1. cap. 48. S. Quibus. And a litle following. S. Et provisum, he hath these words: Et provisum est, auod communes misericordia vel fines comitatuum amerciatorum in finibus itinerum Iusticiariorum ante recession ipsorum Iustitiariorum per Sacramentamilitum, et aliorum proborum hominum de commitatu eo. dem, affidentur super eos qui contribuere debent : unde particula Insticiarus liberentur, vt cum aliis extractis suis ad Scaccarium liberare valeam. These last words of his haue relation to the statute, Westminst. pr.cap. 18. which reade. See Fine.

Common plees (communia placita) is the kings Court now held in Westminster hall, but in auncient time moueable, as appeareth by the statute called Magna charta. cap. 11. as also anno 2. Ed. 3. cap. II. and Pupilla oculi, parte 5. cap. 22. But M. Gwin in the Preface to his readings faith, that vntill the time that Henry the third granted the great charter, there were but two courts in all, called the Kings courts, whereof one was the Exchequer, and the other, the kings bench, which was then called (curia Domine regis) and (aula regia) because it followed the court or king : and that vponthe grant of that char-

ter, the court of common plees was crected and fetled in one place certaine : viz. at Westminfter. And because this court was feeled at Westminster, wherefoeuer the king lay : thereupon M. Gwin, vbi supra, faith, that after that, all the writs ranne, Quod fit coram Iusticiariis meis apud Westmonasterium: whereas before the partie was comanded by the, to appeare coram me vel Iufticiariis meis, fimply without addition of place, as he well obserueth out of Glanvile and Bracton, the one writing in Henry the seconds time, before this court was erected, the other in the later end of Henry the thirds time, who erected this court. All civill caufes both reall and personall are, or were in former times, tryed in this court, according to the strick lawe of the realme: and by Fortescue, cap. 50. it seemeth to have bene the onely court for reall causes. The chiefe ludge thereof is called the Lord chiefe Iustice of the common plees, accompanied with 3. or 4. affistants or afsociates, which are created by leters patents from the king, and (as it were) enstalled or placed vpon the bench, by the Lord Chaunceler and lord chiefe Iustice of the court, as appeareth by Fortescue, cap. 51. who expresfeth all the circumffances of this admission. The rest of the offcers belonging to this court, are these: the custon brenium, three Protonotaries, otherwise called Prenotaries, Chirographer, Filazers 14. Exigenters, 4. Clerke of the warrants, Clerke of the Iuries or iurata writs, Clerke of the Treasurie, Clerke of the kings silver, Clerke of the essoins, Clerke of the outlawries. Whose distinct functions looke in their places. See Common bench.

Common day in plee of land, an. 13. R. 2. stat. 1. cap. 17. significth an ordinarie day in the court as Octavis Michaelis, quindena pasca. c. as you may see in the statute made anno 51. H.3. concerning generall dayes in the

bench.

Common bouse of parlament, is vied for the nether house: because the commos of the realme, that is, the knights of the shires and burgeses, possesse that house.

Crompton iurisd.9.

Commotes, seemeth to be compounded of the prepositio (con) and (mot. i. dictio, verbum) and signifieth in Wales a part of a shire, as a hundred. anno. 28. H. 8. ca. 3. It is written commotthes. anno. 4. H. 4. ca. 17. and is yied for a gathering made vpon the people (as it seemeth) of this or that hundred, by welfh minstrels.

Common law (comunis lex) hath three divers fignificatios. which fee in the author of new termes of law. verbo. Common law.

Communi custodia, is a writ that lyeth for that lord, whose tenent houlding by knights feruice, dyeth, and leaueth his eldest sonne vnder age, against 2 Araunger that entreth the land. and obtaineth the ward of the body. It may feeme to take the name from the common custom or right in this case : which is. that the lord have the wardship of his tenent, vntill his full age, or because it is common for the recovery both of land and tenent, as appeareth by the forme thereof. Old nat. br. fo. 89. See also the Register orig. fo. 161.a.

Communi placito non tenendo in scaccario, is a writ directed to the treasurer and barons of the exchequer, forbidding them to hould plee betweene two common persons in that court, neither of them belonging toward the said court. Register orig. fo.

187.6.

Companion of the garter, is one of the knights of that most noble and honourable order. anno. 24. H. 8. ca. 13. See Garter.

Compromis, (compromissum) is a mutuall promise of two or more parties at difference, to referre the ending of their controuersies, to the arbitriment and equitie of one or more arbitratours. West defineth is thus, parte. 2. Symbol. titulo Compromise. Sett.

R 2 pri.

pri. A compromise or submission (arbitrium, compromissium, submissio) is the faculty or power of pronouncing sentence between persons at controuersie, giuen to arbitratours by the parties mutual primate consent, without publique authority.

Computo, is a writ fo called of the effect: because it compelleth abaylife, chamberlaine, or receiner to yeld his accoumpt, Old uat. br. fo. 58. It is founded vpon the statut of Westm. 2. ca. 2. anno. 13. Ed. i, which for your beter vnderstanding you may read. And it lyeth also for executours of executours. anno. 15. Ed. 3. statut. de prouis. victuall. ca. 5. Thirdly, against the garden in focage for walte made in the minority of the heire. Marlb. ca. 17. And see farder in what other cases it lyeth. Register orig. fo. 135.old nat. br. vbi supra. & Fitzb. nat. br. fo. 116.

Concealers, be such as finde out concealed lands, that is, such lands as privily are kept from the king by common persons, having nothing to shew for them. anno. 39. Eliza. ca. 22. They be so called a concelando, as mons a mouendo. per antiphrasin.

Concord, (concordia) is in the common law, by a peculiar fignification, defined to be the very agreement betweene parties, that intend the lenying of a fine

of lands one to the other, how and in what maner the land shall passe. For in the forme thereof many things are to be confidered. West. parte. 2. Symbol. titulo. Fines and concords, feet. 30. whome read at large. Concord is also an agreement made you any trespas comitted betweene two or more : and is dinided into a concord executory, and a concord executed. Sec Plowden. casu Reniger, & Fogassa fo. s. & 6. where it appeareth by some opinion, that the one bindeth not as being imperfect: the other absolute and tyeth the parties: and yet by some other opimon in the same case, it is affirmed that agreements executory be perfect, and doe noe lesse binde, then agreements executed. fo. 8. b.

Concubinage, (concubinatus) is an exception against her, that seweth for her dower, whereby it is alleadged, that shee was not a wife lawefully maried to the party, in whose lands shee seeketh to be endowed, but his concubine. Britton. ca. 107. Brast. In.

4. tract 6. ca. 8.

Condition, (conditio) is a rate, maner, or lawe, annexed to mens acts, staying or suspending the same, and making them vncertaine, whether they snall take effect or no, West. parte 1. simb.li. 2. Selt. 156. In a lease there may

he two forts of conditions: condition collaterall, or condition annexed to the rent. Sir Edward Cobe. lib. 2. Pennants case. fol. 6.1. Collaterall condition is that, which is annexed to any collaterallact: as that the leastee shall not go to Rome, ibi fol. 65. Condition is also divided into condition in deed or fact, and condition in lawe: which otherwise may be tearmed, condition expressed, and condition implyed. Perkins. Conditions. 722. Thefe and other like divisions of conditions you may reade in the author of the new Tearmes of law. verbo. Condition and in Latleton li. 2. cap. 5.

Conders, may seeme to proceed from the French, (condure.i. deducere, gubernare) they be such as stand vpon high places neere the sea coast, at the time of herring fishing, to make fignes with bowghes, &c. in their hand vnto the fishers, which way the shole of herrings paffeth For that may beter appeare to such as stand vpon some high cliffe on the shore, by a kind of blew colour, that the said fish causeth in the water, then to those that be in the shippes. These be otherwise called huers, by likelihood of the French (buyer. i. exclamare) and balkers: as appeareth by the Aatute, anno I. Iacob. cap. 23.

Cone & key. Bracton. lib. 2. ca.

37. num. 3. looke Cover and Key.

Consirmation (consirmatio) is a strengthening of an estate formerly had, and yet voydable, though not presently voide. For example, a Bishop graunteth his Chancelershippe by patent for the terme of the patentee his life: this is no voide graunt, but voydable by the bishops death, except it be strengthened by the consirmation of the Deane and chapter. See more of this, in West. parte prim. symb. lib. 2. sect. 500. and Fitz. nat. br. fol. 169. B. 226. H. 271. D. 163. G. and

Litleton lib. 3. cap.9.

Confiscate (confiscatus) may be faid to come either from the Latine (confiscare) or the French (configuer.i. in publicum addicerc.) All these words are drawne from (fileus) which originally fignifieth a hamper, pannyer, basket, or freyle: but metonymically the Emperours treasure: because it was anciently kept in fuch hampers, &c. And though our king keepe not his treasure in such things: yet as the Romanes faid, that fuch goods as were forfeited to the Emperors treasurie for any offence, were bona confifcata: fo do we those that are forfeited to our kings Exchequer. See more of these goods confiscate, in Stammf. pl. cor. lib. 3. cap. 24.

R 3 Conge

Conge d'estire (venia eligendi) is very French, and fignifieth in our common lawe, the kings permission royall, to a Deane and chapter in time of vacation, to chuse a bishop: or to an Abbey or Priorie of his owne foundation to chuse their Abbot or Prior. Fitz, nat. br. fol. 169. B. 170. B. C. &c. Touching this mater. M. Gwin in the preface to his readings faith, that the king of England, as soueraigne patron of all Archbishoprickes, Bishoprickes, and other Ecclesiasticall benefices, had of auncient time, free appointment of all ecclesiasticall dignities, when soeuer they chaunced to be voide: inuesting them first (per baculum of annulum) and afterward by his leters patents: and that in proces of time he made the election ouer to others, vnder certaine formes and conditions: as namely that they should at euery vacation before they chuse, demaund of the king (conge d'estre) that is , licence to proceede to election, and then after the election, to crave his royall affent, &c. And furder he affirmeth by good proofe out of common lawe bookes, that King John was the first that graunted this, and that it was afterward confirmed by Westm. pri. ca. i. which statute was made anno. 3. Ed. pri. and againe by the statut (drticuli cleri) ca. 2. which was ordained. anno. 25. Ed. 3. statuto tertio.

Congeable, cometh of the french (conge i. venia) It signifieth in our common law, as much as lawfull or lawfully done; as the entry of the differe is congeable. Litleton. fo. 91. in meo.

Conisance, See Cognisance.

Conizour, aliàs cognizour (recognitor) commeth of the French (cognoistre.i. cognoscere, cernere) and is vsed in the passing of fynes for him, that doth acknowledge the fyne; and the conizee is hee, to whome it is acknowledged. West. parte. I. symbol. ls. 2 sett. 49. & parte 2. titulo. Fines sectio. I 14. See Recognizour.

Coniuration (coniuratio) is the very French word drawne from the latine, which as it is compounded of (con & inro) fo it fignifieth a compact orplot, made by men combining themselves together by oath or promife, to dee some publique harme. But in our common lawe, it is especially ysed for such as have personall conference with the deuill or evill spirit, to knowany fecret, or to effect any purpose. anno 5. Eliza. ca. 16. And the difference that I have observed (how truly let those iudge that be beter skilled in these maters) betweene consuration and witchcraft, is becaule

the one seemeth, by prayers and invocation of Gods powerfull names to compell the devill, to to fav or doe what he commandeth him: the other dealeth rather by a friendly and voluntarie conference or agreement betweene him or her and the deuill or familiar, to have her or his defires and turnes serued in lien of blood, or other gift offered vnto him, especially of his or her foule. And both thefe differ from inchawntments or forceries, because they are personall conferences with the deuillas is aid: but these are but medicines and cerimoniall formes of words called commonly charmes) without apparition.

Consanguineo, is a writ, for he which See Avo: and See the Register orig. De ano, proavo, &

consanguineo.fo. 226.a.

Conservatour of the truce and lafe conduicts (conservator induciarum & saluorum regis conductuum) was an officer appointed in cuery port of the Sea, vnder the Kings leters patents, and had 40. pound for his yearely stipend, at the least. His charge was to enquire of all offences done against the Kings truce & fase conduicts, vpon the maine sea out of the countries, and out of the franchises of the Cinque ports of the king, as the admirals of custome were wont

and fuch other things as are declared. anno 2. H. s. ca. 6. Touching this mater you may read another statut. anno 4. H. 5

cap. 7.

Confernatour of the peace (con. (ernator vel custos pacis) is he that hath an especiall charge by vertue of his office, to fee the kings peace kept. which peace learned M. Lamberd defineth, in effect, to be a withholding or abstinence from that iniurious force and violence, which boysterous and varuly persons are in their natures prone to vie toward others, were they not restrained by lawes and feare of punishment. Of these conservators he farder faith thus: that beforethe time of K. Edward the third, who first erected Iustices of peace, there were fundrie persons, that by the common lawehad interest in keeping of the peace. Of those some had that charge as incident to their offices, which they did beare, and so included within the same, that they were never the leffe called by the name of their office only: some others had it simply as of it selfe, and were thereof named custodes pacis, wardens or conservators of the peace. The former and later fort he againe subdivideth. Which read in his eirenarcha. li. I.Ca. 3.

Confi-

Consideration, (consideratio) is that with vs. which the Grecians called ouranaque: that is, the materiall cause of a contract, without the which no contract bindeth. This consideration is either expressed, as if a man bargain to giue 20. shillings for a horse: or els implyed, as when the law it lelfe inforceth a confideration; as if a man come into a common Inne, and there staying sometime, taketh both meat and lodging, or either for himfelfe and his horse: the lawe prefumeth, that he intendeth to pay for both, though nothing be farder couenanted betweene him and his host: and therefore if he discharge not the house, the host may stay his horse. Fulb: parel: tracta. Contracts. fo. 6.a.b.

Consistory (consistorium) is a word borowed of the Italians, or rather Lombards, signifing as much as (pratorium) or tribunal. vocab. virius, iur. It is vsed for the place of iustice in the courte

christian.

Convocation house (domus convocationis) is the house, wherein the whole clergie is assembled, for consultation upon maters ecclesiastical in time of parlament. And as the house of Parlament, so this consisteth of two distinct houses, one called the higher convocation house, where the Archebishops and Bishops sitte senerally by themselves: the other the lower convocation house, where all the rest of the clergy are bestowed. See Prolocutor.

Conusance. See Cognisance.
Conuzour, See Cognizour.

Consolidation (consolidatio) is veled for the combining, and vniting of two benefices in one. Brooke titulo. Vnion. This word is taken from the civile lawe, where it fignificth properly an vniting of the possession, occupation, or profit with the propertie. For example, if a man haue by legacie vsumfructum fundi, and after ward buy the propertie or fee simple (as we call it) of the heire, hoc casu consolidatio sieri dictur. §. 3. De vsufructu in Institut. See Vnion, and

Unitie of possession.

Conspiracie (conspiratio) though both in Latine and French,it be vsed for an agreement of men, to doe any thing either good or bad: yet in our lawyers bookes, it is alway taken in the evill part. It is defined. anno. 3 4. Ed.pri. statut. 2. to bean agreement of fuch, as doe confedre or binde themselues by oath, covenant, or other allyance, that everie of them shall beare and ayde the other falfly and malitionfly to indight, or falfly to moore ormaintaine plees, and also such as caule childre within age, to appeale me

of felonie, whereby they are imprisoned, and fore gricued: and fuch as reteinemen in the contries with liveries or feele, to maintaine their malitious enterprifes. And this extendeth as well to the takers as to the givers. And Stewards and baylifes of great lords, which by their feignorie, office, or power, vndertake to beare or maintaine quarels, plees, or debates that concerne other parties, then such as touch the estate of their lords, or themselues. anno 4. Ed. 3 cap. 11. anno. 3. H. 7. ca. 12.& of this see more. an. 1. H. 5. c. 3. 6 & an. 18. H. 6. c. 12. as also in the new book of etries.ver. Coffinacy.

Conspiracie, in the places before mentioned, is taken more generally, and is confounded with maintenance and champertie. But in a more speciall signification, it is taken for a confederacie of two at the leaft, falfly to endict one, or to procure one to be indicted of felonie. And the punishment of conspiracie, vpon an endictment offelonie, at the kings suyte, is that the partie attainted, leefe his franke lawe, to the intent that he be not empaneled vpon juries or affifes, or fuch like employments, for the testifiing of truth. And if he haue to doe in the kings court, that he make his atturney: and that his

lands, goods and chatels be feyfed into the kings hands, his lands elfreaped (if he finde no better fauour) his trees raced, and his body committed to prifon. 27. lib. affif. 59. Cromptons Infuce of peace fo. 156. b. This is called vilanous iudgement or punishment. See Vilanous iudgement. But if the partie greiued fiew vpon the writ of conspiracie, then see. Fitzh nat. br.f. 114. D.115.I. Conspiracie may be also in cases of lesse weight. Idem. fo. 116. A.G. See Franke law.

Conspiratione, is a writ that lieth against conspiratours. Fitz. nat. br.fo.114.d. Cromptons wrisd. fo.209. See also the Regist. fo.134.

Constable (constabularius vel conestabulis) is a Saxon word. compounded of (cuning or cyng) and (staple) which doe fignifie the stay and hold of the king. Lamb. duties of constables. nu. 4 But I have heard it made heretofore of these two words, (comes stabuli) which seemeth to me the more probable, because we have this officer from France, as most others, and not from the Saxons. And Tilius in his commentaries (de rebus gallicis) li. 2. ca.de sonistabili, hath the same etymologie, giuing the reason thereof, (quia praest stabulo. i. equiliregis) which office is auncient heere in England, and mentioned by Bratton, seeming

to answere him, that was called (tribunus celerom) vnder the first kings of Rome, and (Magister equitum) afterward. The Germans that inhabite the fide of the river Rhene, note him by thistitle (die constofler) and in counterfeit latine (constofelerus) and in owlder time (constafolarius) that the Romanes were wont to tearine (affefforem indien) And (as Spiegelius in his lexicon noteth. deriue the word (a stafolo comitis. i.gradu Iudicis fiscalis. For faffel in their language (as he faith) fignifieth a grees or steppe of a paire of staires. And therevpon (staffelstein) being a word vsed in their very awncient writings, fignifieth as much as pretorium. But a man many times may Thew in this kinde more curiofitiethen discretion: as perhaps some will judge me heere to haue done. And therefore enough of this. This word is diverfly vled in our common law:first forthe cunstable of England, who is also called mar-Shiall. Stawn. pl. cor. fo. 65. of whose great dignitie and authoritie a man may find many arguments and fignes both in the statutes and chronicles of this realme. His Iway confifteth in the care of the common peace of the land, in deedes of armes, and inaters of warres. Lamb. vbi supra with whome agreeth the statut. anno. 1 3. R. 2.ca. 2. fatu. 1. Smith de Repub. Anglo.i. 2.c. 25. Of this officer or magistrate M. Gayn in the preface to his readings faith to this effect: The court of the conflable and marshiall determineth cotracts touching deeds of armes out of the tealme, and handlerh things cocerning wars within the realine; as combats, blasos of armorie. &c. But it may not deale with hattel in appeales, nor generally with any other thing that may be tried by the lawe of the land . And reade Fortescue ca. 32. This office was belonging hecretofore to the lords of certaine maners, iure fendi: and why it is discontinued, see Dyer.fo. 258. nu. 39. Out of this high magistracie (faith M. Lamberd) were drawen these lower constables, which we call constables of hundreds & franchises, and first ordeined by the statute of Winchester, anno. 13. Ed. 1. which appointeth for the consernation of the peace, and view of armour, two constables in euerie hundred and franchise, which in latine are called conftabularii capitales. And these be nowe a daies called high conflables: because continuance of time, and increase both of people and offenfes, hath againe vnder these made others in enery towne called petit constables, in latine (Subconstabularios) which

are of like nature but of inferiour authoritie to the other . as you may read at large in that learned mans treatife before named. Of these also read S. Thomas Smith li. 2. ca. 22. Befide thefe there be officers of particular places, called by this name; as constable of the tower. Ssan nf. pl.cor.fol. 152. co anno. 1. H.A. ca. 12. Stores annals pa. 812. iurisdict. fo. 1 32. constable of the exchequer. anno.51. H., 3. statute. s. Constable of Douer castel. Camdeni Britan.pa. 239. Fitzb. nat. br. fo. 240. otherwise called castellane. Westm.i. ca. 7. anno. 2. Ed. i. But these be castellani properly. as M. Lamberd. noteth, though conjoined in name with the others. See the statute anno. 32.H.8.ca.38.M. Manwood parte prima. ca. 13.0f his forest lawes, maketh mention of a constable of the forest.

Consueundinibus & servitus, is a writ of right close, which lyeth against the tenent, that deforceth his lord of the rent or feruice dew vnto him. Of this fee more at large the Old nat. br. fo. 77. Fitzh. evdem. fo. 151. and the Register grig: fo. 159.

Consultation, (consultatio) is a writ whereby a cause, being formerly removed by prohibition from the ecclesiasticall court, or court christian, to the kings court, is returned thither againe. For the Judges of the kings court, if youn comparing the libell with the fuggestion of the party, they do find the fuggestion false, or not proued, and therefore the cause to be wrongfully called from the court christian; then ypon this confultation or deliberation, they decree it to be returned againe, wherevpon the writin this case obtained, is called a consultation. Of this you may reade the Register orig. fo. 44. 45. 6c. víg fol. 58. Old nat. br. fo. 32. 6

Fitzh. eodem. fo. 50.

Contenement, (contenementum) feemeth to be the free hould land, which lyeth to a mans tenement or dwelling house, that is in his owne occupation. For in magna charta. ca. 14. you haue these words: A free man shall not be amerced for a small fault, but after the quantity of the fault: and for a great fault, after the maner thereof, faning to him his contenement or free hould. And a merchant likewife shalbe amerced fauing to him his merchandies: and any other villame then owers, shalbe amerced fauing his wainage, if he take him to our mercy. And Bracton. li.z. tracta. 2. ca. I nu. 3. hath these words: & sciendum, quod miles & liber homo non amerciabitur, nisi secundum modum delicti. secundum quod delictum fuit

fuit magnum vel parvum, & saluo contenemento (no: mercator vero non nisi salua merchandiza sua, & villanus nis Calua Waningro suo. which mercy feemeth to have bene learned from the civile lawe: whereby (executio non potest sieri in bones, aratra, aliane instrumenta rusticorum.l. executores & Authen. Agricultores. Co: quares pign. obliga.nec in stipendia, arma, & equos militum. 1. fipendia. Co. de executio. rei judica. co ibi doctores. nec in libros scholarium. glos. in. 1. Nepos Proculo. verbo. dignitate. n. de verbo: significa. Que tamen rusticorum, militum, & scholarium prinilegia circa executionem vera ese, & eatenus obtinere intelligenda sunt, quatenus alia bona habent. Iohan. Eimericus in processu indiciario: cap. de Executione senten. 79. num. II.

Continuance, scerreth to bee vsed in the common law, as prorogatio is in the civile lawe. For example: Continuance yntil the next affife. Eitz. nat. br. fol. 154. F. and 244. D. in both which places it is fayde, that if a record in the treasurie be alledged by the one partie, and denyed by the other: a (certiorari) shall be fiewed to the Treasurer, and the chamberlaine of the Exchequer: who, if they certifie not in the Chauncerie, that fuch a record is there, or that it is likely to be in the Tower: the king thall fend to the Inflices repeating the (certificate) and will them to continue the affife. In this fignification it is likewife when the thing of the second of the second and also anno 14. H. 6. cap. 4.

Continuall claime (continuum clameum) is a claime made from time to time. Within enery yere and day, to land or other thing, which in fome respect we cannot attaine without daunger. For example, if I be diffeifed of land, into which, though I have right vnto it, I dare not enter for feare of beating: it behooueth me to hold on my right of entry to the best oportunitie of me & mine heyre, by approching as neare it as I can, once enery yere, as long as I line; and fo I faue the right of entry to mine heire. Termes of law . Againe, if Fhaue a flave or villein broken from me, and remaining any where within the auncient demesn of the king, being in the handes of the king, I cannot maintaine the writ de nativo babendo, as long as he continueth there: but if I claime him within the yeare and the day, and so continue my claime, vntill I can find him within that compaffe: I may lawfully lay hold of him as mine owne. Fitz, nat. br. fol. 79. See more in Litleton, verbo Continuall claime And the new bocke of Entries Ibid. and Fleta. lib. 6.cap. 53.

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Contract (contractus) is a covenant or agreement with a lawfull confideration or caufe. West. parte prim. symbol. lib. 1. Sect. 10. and lib. 19. x. de verbo: Significa. with other places, it is thus defined: Contractus est negotium inter duos plure sue data opera gestum, vt vel vterque invicem, vel alternter obligetur. Who so will throughly examine the difference betweene this and (pactu) and fuch other words fomething like in fignification : let him fearch the civilians, and he shall find worke both pleasant and profitable, and well fitting the common lawe also.

Contra formam collationis, is a writ that lyeth against an abbot or his successor, for him (or his heire) that hath given land to an Abbey, to certaine good vses, and findeth that the Abbot or his successour hath made a feofment thereof, with the affent of the tenents, to the disherison of the house or church. This is founded vpon the flatute of Westm. 2. cap. 41. And of this fee the Regist. orig. fol. 238. and Fitzh nat. br. fol. 210. And note that the author of the Termes of Him law faith, that this is not brought against the tenent or alience.

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Contra formam feoffamenti, is a writ, that lyeth for the heire of a tenentinfeoffed of certain lands or tenements, by charter of feof-

ment by a Lord to make certain feruices and fuites to his court. and is afterward distreined for more, then is contained in the faid charter. Regist. orig. fol. 176. old nat. br. fol. 162. and the Tearmes of the lawe.

Contributione facienda, is a writ that lieth in case where more are bound to one thing, & one is put to the whole burden. Fitz.nat.br. fo. 162. bringeth these examples. If tenets in comon or iount, hold a mill (pro indiviso) & equally take the profits therof, the mill falling to decay, & one or more of the, refusing to contribute toward the reparation therof, the rest shall have this writ to copell the. And if there be 3. coparceners of land, that owe fuite to the lords court, & the eldeft perform the whole: then may she have this writto compell the other two to a cotributio of the charge or to one of them, if one only refuse. The old nat br. frameth this writ to a case, where one onely fuite is required for land, & that land being fold to divers, suite is required of them all, or some of them by distresse, as intirely, as if all were still in one. fol. 103. See the Regist. orig. fol 176.

Controller (contrarotulator) cometh of the French (contrerouleur. i. antigraphus, grace avliveapeus.) which in Rome was vied for him, cui id muneris unctum erat, ot observaret pecuniam, quam in v-Sum Principis vel civitatis colligerunt exactores. Budaus in annota. prio in panditulo De officio quastoris. In England we have divers officers of this name: as controller of the kings house, pl. cor. fol. 52. et anno 6. H. 4. cap. 3. controller of the nauic. anno 35. Elizabeth. cap. 4. controller of the custome. Cromptons Iurisd. fol. 105. controller of Calis. anno 21 Rich. 2. cap. 18. controller of the Mint. anno 2. H. 6. cap. 12. controller of the hamper, (Contrarotulator Hamperii) which is an officer in the Chauncerie attending on the Lord Chaunceler or Keeper daily in the terme time, and dayes appointed for sealing. His office is to take all things sealed from the clerke of the hanaper, inclosed in bags of lether, as is mentioned in the faid clerkes office, and opening the bags to note the just number, & especiall effects of all thinges so received, and to enter the same into a speciall booke, with all the duties appertaining to his Maiestie, and other officers for the same, and so chargeth, the clerke of the hanaper with the same. Controller of the Pipe, (contrarotulator Pipa) who is an officer of the Exchequer that writeth out fummons twice euery yeare to the Shyrceues, to levie the Fermes and debts of the

Pipe, and also keepeth a contrarolment of the Pipe. Controller of the pell, is also an officer of the Exchequer, of which fort there be two viz. the two chamberlaines clerkes, that do or should keepea controlment of the pell of receipts and goings out. And in one word, this officer was originally one, that tooke notes of any other officers accompts or receipts, to the intent to difcouer him, if he dealt amisse, and was ordained for the Princes beter securitie, howsoeuer the name sichence may be in some things otherwise applyed. To the proofe whereof you may take these few words out of Fleta. lib. 1. cap. 18. in prin. Quicum fuerint ad hoc vocati & electi, (speaking of the coroners) atta. chiari precipiant appella: qui et capitula corone in comitatu presentiti contra quos vicecomes leci habeat contrarotulum, tam de appellis & inquisitionibus, quam alies officium illud tangentibus, &c. Which (contrarollum) is nothing elfe, but a paralel of the fame quality and contents with the apololumov, or originall. This also appeareth by anno 12. Ed. 3.ca. 3. And this fignification it feemeth to have also in Fraunce. For there the king hath his receyvers of taylles in cuery prouince, and controllers, qui ad maiorem fidem susceptoribus accedunt, describuntos

intabulis que colliguntur. Gregorn syntagn. lib. 3. cap. 6. num. 6.

Conventione, is a writ, that lyeth for the breach of any couenant in writing, Register orig. fo.
185, Old nat. br. fo. 101. Fitzh,
calleth a writ of couenant. nat.
br. fo. 145. who deuideth couenants into personall and reall,
making a sufficient discourse of
them both: as also how this writ
lyeth for both.

is founde guilty of an offence by the verdict of the iurie. Stawnf. pl. cor. fo. 186. yet Master Crompton out of ludge Dyers commentaries 275. faith, that conuiction is, either when a man is outlawed, or appeareth and confesseth, or els is founde guilty by the inquest. Crompt. Iust. of peace. fo. 9. a. Conuiction and attainder are often confounded. li. 4. fo. 46. a. b. See Attaint.

therwise called parceners: and in common law, are such as have equal portion in the inheritance of their auncestour. and, as Litteron in the beginning of his third booke saith, parceners be either by law or by custome. Parceners by law, are the issue femall, which (noe heyre male being) come in equality to the lands of their auncestours. Bract.

of the country, chalenge equall part in such lands: as in Kent by the custome called (Gauel Kinde) This is called adaquateo among the Feudists. Hot. in verbisfeuda. verbo. Adaquatio. And among the civilians it is tearmed familia erciscunde indicium. quod inter coharedes ideo redditur, vt & bareditas dividatur, & quod alterum alteri dare facere oportebit, prestetur. Hotoman. Of these two you may see Ltleton at large in the first and second chapters ofhis third booke, and Britton cap. 27. intituled De heritage diuisable. The crowne of England is not subject to coparcinory. anno. 25. H. 8.ca. 22.

Copie, (copia) commeth from the french copia, i. le double de que-lque escripture, latine descriptio, grece a copeaçor, and fignifieth in our common language, the example of an originall writing: as the copie of a charter, the copie of a court rolle.

Copia libelli deliberanda, is a writthat lyeth in case where a mancannot get the copie of a libell at the hands of the Judge ecclesiasticall. Register orig. f. 51.

Copiehould, (tenura per copiam rotuli curia) is a tenure, for the which the tenent hath nothing to shew, but the copie of the rols made by the steward of his lords court. For the steward, as he inrolleth, and maketh re-

membrances

membrances of all other things done in the lords court: fo he dorh also of such tenents, as be admitted in the court, to any parcell of land or tenement belonging to the maner: and the transcript of this, is called the court rowle : the copie whereof the tenent taketh from him, and keepeth as his onely euidence. Coke. li. 4. fo. 25. b. This tenure is called a base tenure, because it houldeth at the wil of the lord. Kitchin. fo. 80. chap: copihoulds. Fitzh. nat. br. fo. 12. B. C. who there faicth, that it was wont to be called tenure in villenage, and that this copinould is but a new name. Yet is it not simply at the will of the lord, but according to the custome of the maner. So that if a copie houlder breake nor the custome of the maner, and thereby forfeit his tenure, he seemeth not so much to stand at the lords courtesie for his right, that he may be difplaced hand ouer head at his pleasure. These customes of maner be infinit, varying in one point or other, almost in cuery seueral! maner. First, some copiehould is fineable, and fome certaine: that which is fineable, the lord rateth at what fine or incom he pleaseth, when the tenent is admmitted vnto it: that which is certaine, is a kinde of inheritance, and called in many places

cultumary: because the tenent dying, and the hould being void the next of the blood paying the custumarie fine, as two shillngs for an acre or fuch like, may not be denied his admission. Secondly, some copinoulders have by custome, the wood growing vpon their owne land, which by law they could not have. Kitchin ubi supra. Thirdly, copiholders, some be such as hold by the verge in ancient demesn: & although they hold by copy. yet are they in accompt a kind of Free-holders. For if such a one commit felonie, the king hath (annum, diem, & vastum) as in case of Freehold. Some other hold by common tenure, called meere copy hold:and they committing felonie, their land elcheateth to the Lord of the maner foorthwith. Katchin fol. 81. chap. Tenents per verge in auncient demesn . What auncient demesn is, see in the right place. See Tenent by copie of court rolle. This is the land that in the Saxons time, was called Folkland. Lamberd, explicat. of Saxon words. verbo, Terra ex scripto. West. parte prim. symbol.lib. 2. Sect. 646. defineth a copiholder thus: Tenent by copie of court rolle, is he which is admitted tenent of any lands or tenements within a maner, that time out of the memory of man,

may attend vpon such an office. Yeathere is a writ in the Regifor Nififit miles. fo. 177.b. whereby it appeareth, that it was fufficient cause to remooue a coroner chosen , if he were not a knight, and had not a hundred shillings rent of freehold. And the Lord cheife Iustice of the kings bench, is the foueraigne coroner of the whole realme in person, i. wherefoeuer he remaineth.libro affifarum fo. 49.5.coron. Coke.li.a.casu.de Wardens, &c. of the Sadlers. fo. 57.b. His office efpecially concerneth the plees of the crowne: but if you will reade at large, what aunciently belonged vnto him: reade Bra-Eton.li. 3. tra. 2. c. 5. de officio coronatorum circa homicidium. and ca. 6. de officio coronatoris in the auris inventis. & ca. 6. de officio coronatorumin raptu virginium and ea. 8. de officio coronatorum de pace & plagis. and Britton in his first chaperior ter, where he handleth it at large. pie (Fleta also in his first booke cap. 18. and Andrew Horns mirrour of W25 Instices. li. 1. ca. del office del coroners.but more aptly for the present times, Stammf. pl.cor li. 1. ca. T. Note there be certaine corothe ners speciall within divers liberties, as well as these ordinarie officers in euerie countie: as the coroner of the verge, which is a certaine compas about the on kings court. whome Crompt. in

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his iurisd. fo. 102. calleth the coroner of the kings house: of whose authoritie see S. Ed. Cokes reportes. lib. 4. fo. 46. a.b. And I know certen charters belonging to colledges and other corporations, whereby they are licesed to appoint their coroner within their owne precincts. Farder of this office see also Fitzh. nat.br.fo. 76. A. B. S. Thomas Smith.li. z.ca.ca. z I. de repub. Anglo.and Lamb. errenarcha. li.A.ca. 3.pa. 380. And the office of the coroner in Scotland. what it is, read M. John. Skene de verbo. fignift.verbo.Iter.

Corporation (corporatio) is that which the civile law calleth universitatem, or collegium. 2 bodie politique authorised by the kings charter, to haue a common seale, a head officer, one or more, and members able by their common consent, to graunt or to receive in law any thing within the compasof their charter: euen as one man may doe by law all things, that by lawe he is not forbidden: and bindeth the successours, as a singleman bindeth his executour or heyre. See Brokes his abridgment. titulo Corporation, and the newe Tearmes of lawe. eo-

Corpus cum causa, is a writ issuying out of the Chauncerie, to remoue both the bodie and

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the record touching the cause of any man lying in execution, vpo a judgement for debt into the Kings bench,&c. there to lye vntill he have satisfied the judgement. Fitzh. nat. br. fol. 251. E.

Corrector of the staple, is an officer or clerke belonging to the staple, that writeth and recordeth the bergains of Merchants there made, anno 27.Ed. 3. stat. 2. cap. 22. & 23. The Romanes

called them Mensarios.

Corruption of blood, is an infection growing to the estate of a man attainted of selonie or treason, and to his issue. For as he leeseth all to the Prince, or other lord of the see, accordingly as his case is, so his issue cannot be heires to him, or to any other auncester, of whom they might have claimed by him. And farder if he were noble, or a gentleman before, he and his children are made vnnoble and vngentle in respect of the sather. Newe Tearmes of the lawe.

Corse present, are words borowed from the French, signifying a mortuarie. anno 21. H.8.ca.
6. The true French is (corps prasente) is the bodic presented or
tendered. The reason why the
mortuarie is thus also tearmed,
seemeth to be, for that where a
mortuarie was wont to be due,
the bodie of the best beast was
according to the law or custome

offered or presented to the priest.

Corselet, is a French word fig. nifying a litle bodie, in Latine (corpuculum.) It is vied with vs, for an armor to couer the whole bodie, or trunke of a man. anno 1. 6 5. Ph. & Mar. cap. 2. wherewith the pikemen, commonly fet in the front and flanks of the battaile are armed, for the beter refistance of the enemies affaults, and the furer guard of the gunners placed behind or within them, being more fleightly armed, for their speedier issuing in and out to discharge their peeces. See Barrets discourse of Warre. lib. 3. dialog. 2.

Cosenage, cognatione) is a writ, that lyeth where the tresaile (that is, tritavus, the father of the besaile, or of the great grandsather) is seysed in his demess as of see, at the day of his death, of certaine lands or tenements, and dyeth: and then a straunger entreth and abateth. For then shall his heyre haue this writ of cosenage: the forme whereof see in Firz. nat. br. fol. 221. Of this also reade Britton at large. cap. 89.

Cosening, is an offence vnnamed, whereby any thing is done guilefully in or out of contracts, which cannot be fitly termed by any special name. West. parte. 2. simbola ogr. titulo. Indistments. sett. 68. It is called stellionatus in the civile lawe of (stellio) the

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beast, which is lacerta genus virsuissimum, as Cuiacius in his paratitles calleth it, and, quo nullum animal homini invidet fraudulentius. Plinie li. 2. ca. 10.

Cotage (cotagum) is a house without land belonging vnto it. anno.4. Ed. pri. statut. primo. And the inhabitant of such a house is called a cotager. But by a later statute, no man may builde a cotage, but he must lay 4. acres of ground vnto it. 31 Elica.7.

Cote, is a kind of resuse wolle clung or clotted together, that it cannot be pulled as under anno.

13.R.2.stat.1.ca. 9. It signifies also as much as cotage in many places, as also it did among the Saxons. Verstegan in his Restitut. of decayed intelligece in antiquities.

Covenable (rationabilis) is a French word, fignifying fitte or convenient, or futeable.covenably endowed an o.4. H.8.ca. 12. It is aunciently written (convenable) as in the stat.an. 27. Ed. 3. stat. 2.ca. 17.

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Couenat, convetio, is the confet of two or more in one felf thing, to doe or give fomwhat. Weft. part. 2. Symbol. 1s. 1, sect. 4. It seemeth to be as much as (pactum. conventum) with the civilians. which you read often times in Tullie. Pactum conventum, quod & vulgo vestium vocant, oppenitur nudo pacto, velut ab omni suris solennitate destituto. Huius exempla ponere

difficile este Iason existimavit. Conventum aiunt, quod vestitur aut re. aut verbis aut literis aut contractus coherentià aut rei interuentu. Oldendorpius. And couenant in this fignification, is either a covenant in lawe, or a couenant in fact. Coke.lib. 4. Nokes cafe. fo. 80. or couenant expresse & couenant in lawe.idem. li. 6.fo. 17.a. Couenant in law is that, which the law intenderh to be made, thoughin words it be not expressed: as if the lessour doe dimise and graunt,&c. to the leassee for a certaine tearme, the lawe intendeth a couenant of the lessours part, that the lessee shall, during his whole terme, quietly inioy his leafe against all lawfull encumbrance. Covenant in fact is that, which is expressely agreed betweene the parties. There is also a couenant meerely personall, and a couenant reall. Fitzb.nat.br.fo. 145. And he feemeth to fay, that a couenant reall is, whereby a mantieth himfelfe to paffe a thing reall, as land or tenements, as a couenant to levie a fyne of land, &c. a covenant meerely personall of the other fide, is where a man couenanteth with another by deede, to build him a house, or any other thing, or to ferue him, or to infeoffe him &c. Couenant is also the name of a writ, for the which see Connentione. Instru-

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ments of couenants you may fee good flore in West parte.i. Symbolaog.li. 2.setio. 100. See also the new booke of entries. verbo. Couenant.

Couent, (conuentus) fignifieth the fociety or fraternity of an abbie or priorie, as (focietas) fignifieth the number of fellowes in a colledge. Bratton. li. 2.ca. 35. It commeth of the french (consent. il ownobium).

Couerture, is a french word fignifying any thing that couereth, as apparell, a couerlet, &c. and deduced from the verb (convrir.i. tegere) Itis particularly applied in our common lawe, to the estate and condition of a maried woman, who by the lawes of our realme, is in (poteftate viri) and therefore dilabled to contract with any, to the preiudice of her felfe or her hufband, without his consent and prinity; or at the least, without his allowance and confirmation. Broke. hoe tit. per totum. And Bracton faith, that omnia que funt vxoris, suntipsius vini, nec habet vxor potestatem sui, sed vir. li. 2. ca. 15. and that (vir eft caput malieris) li. 4. ca. 24. and agamed that in any law mater, fine our respondere non potest. li. 5. tract. 2. ca. 3. and tract. 5. ca. 25. einsdem I bri. he hath words to this effect: vir & vxor funt quasi unica per-Sona: quia caro una & sanguis vnus. Res licet sit propria vicoris, vir eameneius custos, cum sit caput mulieris. and li. t. ca. to.nu. 2. Vicores sunt sub virga viri. And if the husband alienate the wifes land, during the mariage, shee cannot gaineiay it during his life. See Cui ante divortum. and Cui in vita.

Covine, (covina) is a deceitfull affent or agreement betweene two or more, to the prejudice or hurt of another. New tearms of lawe. It commeth of the french verb (conuenancer.i. depacifci.) or rather (conuenir.i.conuenire.)

Concher, fignifieth a factour that continueth in some place or country for trafique. anno. 37. Ed. 3, ca. 16. It is vsed elso for the generall booke, into which any corporation entreth their particular acts for a perpetuall remembrance of them.

Counte, cometh of the french (coumpte i subductus, coputatio, ratio) or of (cote.i. narratio.) It fignifieth as much as the originall declaratió in a proces, though more vied in real actions then perfonall, as declaration is rather applied to personall then reall. Fitzb. nat. br. fo. 16. A. 60. D. N. 71 A. 191. D. 217. A. (Libel-(us) with the ciu hans comprehendeth both. And yet count and declaration be confounded lometimes; as count in debt. Kitchin: fo. 281. count or declaration in appeale. pl. cor. fo. 78.

Count

funt in trefpaffe. Britton.cap.26 bunt in an action of trespasse voon the case for a flaunder. Kit. fol. 252. This word feemeth to come from France & Normandy. For in the grand Custumarie, c. 64. I find (contemrs) to be those, which a man fetteth to speake for him in court, as aduocates: & cap. 62. (pledeurs) to be another fort of spokes men, in the nature of Acturneys, for one, that is him selfe present, but suffereth another to tell his tale. Where also in the 65. chapter, Atturney is faid to be he, that dealeth for him that is absent. See this rext and Gloffe vpo those z.chapters. Countours (by Horn in his Myrror of Iustices. li. 2. ca. Des loyers) are Sergeants skilfull in the lawe of the Realme, which serue the comon people, to pronounce and defend their actions in judgement for their fee, when occasio requireth: whose duty, if it be as it is there described, and were observed, men might have much more comfort of the lawe then they have.

Countenance, seemeth to be vseed for credit or estimation, old
na.br.fol. 1 1 in these words: Also the attaint shall be graunted
to poore menthat will sweare,
that they have nothing whereof
they may make fine, saving their
countenance, or to other by a
reasonable fine. So is it ysed, anno

1. Ed. 3. stat. 2. cap. 4. in these words: Shyreeues shall charge the kings depters with as much as they may leuie with their oathes, without abating the depters countenance.

Counter (computatorium) feermeth to come of the Latin (computate) or the French (counter.) For we vie it for the name of a prifo, wherinto he that once slippeth, is like to accompute the get out.

Counter plee, is compounded of two French words (contre. i. contra, adversus) and (pleder.i.causam agere.) It fignifieth properly in our common lawe, a replication to (ayde prier.) For when thetenent by courtefie, or in dower, prayeth in ayde of the king, or him in the reuersion, for his beter defence or else if a stranger to the action begun, defire to be received to fay what he can for the fafegard of his effate: that which the demandant alledgeth against this request, why it shuold not be admitted, iscalled a counter plee. See Broke h r. And in this fignification it is vied.anno . 25. Ed.3. stat. 3. cap. 7. See also the new termes of the law, and the statute anno 3. Ed. 1. cap. 39.

County, (comitatus) fignifieth as much as (fire,) the one descending from the French, the other from the Saxons, both conteining a circuit or portion of the realme, into the which the whole

land is duided for the beter gouernment thereof, and the more casic administration of justice. So that there is no part of the kingdome that lieth not within some countie, and enery county is gouerned by a verely officer, whom we cal a Shyreeue, which among other duties belonging to his office, putteth in execution all the commandements & judgments of the kings courts, that are to be executed within that compasse. Fortescue cap. 24. Of these counties there be foure of especiall marke, which therefore are tearmed countie Palatines, as the county Palatine of Langaster, of Chefter of Durham, & of Ely ann. 5. Eliz. 1. c. 23. I read also of the county Palatine of Hexam.an. 33 H.S.ca. 10. Vide quare. And this county Palatine is a Jurisdiction of so high a nature, that whereas all plees touching the life or mayhem of man, called plecs of the crowne, be ordinarily held & sped in the kings name! & cannot passe in the name of any other; the chiefe gouerners of these, by especiall charter from the king, did heretofore fend out all writs in their ownename, and did all things touching iustice, as absolutely as the Prince himself in other counties, only acknowledging him their superiour and Soueraigne. But by the statute. suno 27. H. 8.0.25. this power is

much a bridged, vnto the while I refer the reader as alio to Cron larif.fo. 1 27. for the whole course of this court. Besides these coun. ties of both forts, there be like. wife counties corporate, as appeareth by the statute. anno 2. Ed.4. s. and these be certaine cities, or auncient boroughs of the land, vpon which the Princes of our nation have thought good to bellow such extraordinary liberties. Of these the famous city of London is one, and the principall, Torke another, an. 32. H. 8. cap. 12. the city of Chester a chird an 42. Eliz. cap. 15. Canterburie a fourth. Lamb. Eiren. 1.1. cap. 9. And to these may be added many moe: but I have onely observed out of the statutes & other writers, the county of the towne of Kingston upon Hull, anno 32. H. 8. cap. 13. the county of the towne of Haverford. West. anno 35. H. 8. cap. 26. and the county of Litchfield. Cromptons Instice of peace. fo. 59.4. County is in another fignification vsed for the County court, which the Shyreeue keepeth enery moneth within his charge either by himselfe or his deputie, anno 2. Ed. 6 ca. 25. Cromptons Inref.fo. 221. Bract.li. 3. c. 7. 6 li.3. tract. 2. cap. 12. Of thele counties or shires one with another, there are reckoned in England 37. beside twelue in Wales.

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this also vied for a jurisdiction or territorie among the Feudists.

Countie court (curia comitatus) by M. Lamberd is otherwise called (consentus) in his explication of Saxon words, and divided into two forts: one retaining the generall name, as the county court held euery moneth by the Shyreeue, or his deputie the ynder-shyrecue, whereof you may reade in Cromptons jurisd fol. 231. the other called the Turne, held twice euery yeare, which see more at large in hisplace; and Cromptons Iurifd. fol. 231. This countie court had in auncient times the cognition of these and other great maters, as may appeare by Glanvile. lib. 1. cap. 2 2.4. by Bratton and Britton in disters places, and by Fleta. li.2. cap. 62. But that was abridged by the statute of Magna charta. cep. 17. and much more by .I. Ed. 4. cap. vnico. It had also, and hath the determination of certaine trespasses, and debts under forty shillings. Britton.cap 27. 6 28. what maner of proceeding was of old vled in this court, tee Fleta zibi supra.

Coursitour. See Cursetour.

Court (curia) commeth of the French (court) which significant the kings palace or mansion, as (curis) doth among the Lombards All these spring of the Latine (curia) which significant one

of thirty parts, into which Remulus divided the whole number of the Romaines: sometime also the Senate house, as appeareth by Tully in his Offices (nihil eft qued dis num nobis, aut in foro aut in curia agere possumus: which in his oration (pro Milone) he calleth, Templum santitatis, amplitudinis, mentis, consilii publici, caput vrbis, &c. Court, with vs. fignifieth diverfly as the house where presently the king remaineth with his ordinarie retinue, and also the place where justice is indicially ministred : of which you finde 32. seueral sorts in M. Cromptons booke of Inrisdictions well described. And of them most be-courts of record: some be not, and therefore are accompted bale courts in comparison of the rest. Beside these alfo there are courts Christian. Smub de repub. Anglor. lib. 3. cap. 9. which are so called, because they handle maters especially appertaining to Christianitie, and fuch as without good knowledge in diumity cannot be well iudged of, being held heretofore by Archb. and Bishops, as from the Pope of Rome: because he chalenged the superioritie in all causes spirituall: but sithence his erection, they hold them by the kings authoritic (virtute magistratus (ui) as the Admirall of England doth his court. Whereupon it proceedeth, that they fend out their precepts in their owne names, and not in the kings, as the Iustices of the kings courts doe. And therefore as the appeale from these courts did lie to Rome: now by the statute and 25. H. 8. cap. 19. it lyeth to the

king in his Chaimceric. Court baron (curia baronis) is a court that every lord of a maner (which in auncient times were called barons) hath within his owne precincts. Barons in other nations have great territories and jurisdiction from their Soueraignes: as may be proued out of Cassanests de gloria mstadil parte 5. confideratio. 56. by Vincentius de Franchis descis. 211.and many others. But here in England what they be, and have bene heretofore, see in Baron. Of this court Baron you may reade your fill in Kirchin, that writetha large booke of it, and of a court leete. S. Edward Coke in his fourth booke of Reports, amongst his copyhole cases. fol. 26. b. faith, that this court is two after a sort: and therefore if a man having a maner in a towne, and do graunt the inheritance or the copyholders' thereunto belonging, vnto another: this grantee may keep a court for the custumarie tenents, and accept furrenders to the vie of others, and make both admittances and

graunts: rhe other court is of Freeholders, which is properly called the court baron, wherein the suyters, that is, the Freeholders be Judges: whereas of the other the Lord or his steward is Judge.

Cours christian (curia christiana)

See Court.

Cours of Pypowders. See Py-

Court of Requests (curia requistarum) is a court of equitie, of the fame nature with the Chancerie, principally inflituted for the helpe of fuch petitioners, as in conscionable cases deale by supplication with his Maiestie. This court, as M. Gwin faith, in the preface to his feadings, had be ginning from commission still graunted by Henry the 8. to the mafters of Requests: whereas be fore that time (by his opinion) they had no warrant of ordinan iurildiction, but tranelled be tweene the king and the petitio. ner by direction from the king mouth . But Sir Iulius Cefar int Tractate of his, paincfully and very indiciously gathered from the records of the fame count plainely sheweth that this coun was 9. Henrici septimi, though then following the king, and not setled in any certaine place, neither swayed particularly by the Masters of requests, (as now it is) but more at large by other

of the kings most Honourable Councell, whom he pleased to employ in this service. For pag. 148, of the faid Tractate, you haue the forme of the oath then ministred to those that were Indges in this court : and a pag. prim. vique ad pag. 46. causes of divers natures, which in the faid kings dayes were there handled and adjudged. This court, as that right Honorable and learned Knight, in a briefe of his vpon the same court plainely proueth, was and is parcell of the kings most Honorable Councell, and fo alwaies called and effeemed. The Iudges thereof were alwaies of the kings most Honourable Councell, appointed by the king to keepe his Councell board. The keeping of this court was neuer tyed to any place certaine, but onely where the Councell fate, the fuyters were to attend. But now of late for the ease of suiters, it hath bene kept in the White hall at Westminster, and onely in the Tearmetime. It is a court of Record, wherein recognizances are also taken by the kings Councell. The forme of proceeding in this court, was altogether according to the processe of summarie causes in the ciuile lawe. The persons plaintiffes and defendants, were alwaies either priviledged, as officers of the court, or their fer-

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vants, or as the kings feruants, or as necessarie attendants of them: or elfe where the plaintiffes pouertie', or meane estate was not matchable with the wealth or greatnesse of the defendant: or where the cause meerely contained mater of equitie, and had no proper remedie at the common law: or where it was specially recommended from the king to the examination of his Councell: or concerned Vniuersities, Colledges, Hospitals, and the like. The causes wherwith they deale, and wherof they judge, are of all fortes: as maritime, vltra marine, ecclefiasticall, temporall; but properly temporall causes, and onely of the other fort, as they are mixt with temporal. The maner of proceeding in the faid court, is first, by privie seale, leters missiue, or Iniunction, or messenger, or bond. Secondly, by attachement. Thirdly, by proclamation of rebellion. Fourthly, by commission of rebellion: fifely, by Sergeant at armes. The effect of the defendants apparence is, that he attend de die in diem on the councell, till he have made his answer to the plaintiffes bill, and be licenced to depart vpon caution de indicio sisti o indicato ColColvendo, and constitution of his Atturney and councell by name. The authoritie of this court is fuch . as vppon cause to graunt injunctions for barring the defendant from fyewing the plaintiffe at the common lawe: and to stay the fuyte at the common lawe before commencement, and not to arrest the bodie of the plaintiffe, till furder order be taken by the Kings councell : and the execution of a decree in this court may be done, either by imprisonment of the person disobeying, being partie, or claiming vnder the partie: or by levie of the summe adjudged vppon his lands.

Courtesie of England (lex Anolia) commeth of the french (Courtefie. i. benignitas, humanitas) but with vs hath a proper fignification, being vsed for a tenure. For if a man marie an inheretrice, that is, a woman fersed of land in fee simple, or fee taile generall, or seised as heire of the taile speciall, and getteth a childe of her that commeth alive into the world, though both it and his wife die forthwith, yet, if she were in possession, shall he keepe the land during his life, and is called tenent per legem Anglie, or by the courtefie of England. Glanvilli. 7. ca. 18. Bracten. li. 5. tracte. 5. ca. 30.mm. 7. 8.9. Britton. ca. 51. fo. 122. Fleta. li. 6. ca. 56. S. lex quedam. Fitzh. nat. br. fo. 149. D. Litleton. li. 1. ca. 4. It is called the law of England. Westm. 2. ca. 3. This is in Scotland called (curialitas Scotia. Skene de verbo. sign. verbo Curialitas: who there faith that this is yied in thefe two realmes onely, and maketh alargedif. course of the custome.

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Coutheutlanobe is he that wire tingly receiveth a man outlawed. and cherifeth or hideth him. In which case he was in auncient times subject to the same punishment, that the outlawe himselfe was. Bracton. li. 3. tracta. 2.ca. 13.nu. 2. It is compounded of (courbe i. knowne, acquainted, familiar, and (vtlanghe) an outlaw, as we now call him.

Courtilage, alias curtilage (curtilagium, alias curtilegium) signifieth a garden, a yard, or a feeld, or peece of voide ground lying neere and belonging to a meluage , Welt. parte. 2. Symbolao. titulo fines. fect. 26. And fo isit vsed anno. 4. Ed. i. ca. vnico. anno. 35. H. 8. ca. 4. & anno. 39. Eliza. ca. 2. and Coke vol. 6. fo. 64. a. Of this alfo Lindwood thus writeth. Curtilegium vulgare nomen est, non omnium patriarum, sed certarum. Est enim curtis mansio vel manerium ad habitandum cum terris, possessionibus, or aliis emolumentis ad tale manerium pertinen-

tibus,

tibus, provt satis colligitur in libro feudorum, titulo. de controuersia investitura. § si quis de manso. Coll. 10. Vade curtilegium dicitur locus adiunctus tali curti, vbi leguntur berba vel olera: sic dictus a (curtis) & (lego legis) pro colligere. Thus farre Linwood. titulo de decimis. ca. Sancta. §. omnibus, verbo Curtelegiorum. So that in effect, it is a yard or a garden adioyning to a house.

Creansour, (creditor) commeth of the stench (croyance. i.persuasio) and signifieth him, that trusteth another with any debt, be it in mony or wates. Old nat. br.

fo. 67.

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Cranage, (cranagium) is a liberty to vsea crane for the drawing vp of wares from the vessels, at any creek of the sea or wharse, vuto the land, and to make profit of it. It signifieth also the mony paide and taken for the same. New booke of Entries. fo. 3.

Creeke, (creca, crecca, velcreAnd cum) feemeth to be a part of a
from hauen, where anything is lanfrom fea. So that when you are out of
from the mayne fea within the haremulation, looke how many landing
from places you haue, so many creeks
com may be said to belong to that
from hauen. See Cromptons intersedictiand mrs. fo. 110. a. This word is

mencioned in the statute, as anno 5. El. ca. 5. and divers others.

Creast Tile. See Roose tile.

Croft, (croftum) is a litle close or pitle ioyning to a house, that sometimes is vsed for a hemp ground, sometime for corne, and sometime for passure, as the owner listeth. It seemeth to come of the ould english word (Creast) signifing handy crast: because such groundes are for the most part extraordinarily dressed and trimmed by the both labour and skill of the owner.

Croises, (cruce signati) be vsed by Britton. ca. 122. for such as are pilgrimes: the reason may be, for that they weare the signe of the crosse you their garments. Of these and their privileges reade Braiton. li. 5. parte 2. ca. 2. & parte 5. ca. 29. and the grand customary of Normandy ca. 45. Vnder this word are also signified the knights of the order of Saint solm of Ierusalem, created for the desence of pilgrims. Grego. Syntag. li. 15. ca. 13. & 14.

Cucking stoole, (14mbrella) is an engine muented for the pumshment of scolds and vinquiet women, called in auncient time a tumbrell. Lamb. cirenarcha.li 1. ca. 12. po. 62. in meo. Braston writeth this word (17mborella.) Kitchin, where he saith, that

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eucry one hauing view of Frankpledge, ought to haue a pillorie and a tumbrell, seemeth by a tumbrell to meane the same thing. cap. Charge in court leste. fol. 12.4.

cuth, other, vncuth (privatus velextraneus.) These be old English words, not yet worne out of knowledge, for the which see Roger Hoveden. parte poster. snorum annalium. fol. 345.a.

Cudutlaghe. See Conthut-

laughe.

Cui ante divortiam, is a writ, that a woman divorced from her husband, hath to recover lands ortenements from him, to whome her husband didalienate them during the mariage: because during the mariage, she could not gainesay it. Regist ori. fol. 233. Fitzb. nat. br. fol. 204.

Cainage, is a word vsed for the making up of tinne, into such fashion, as it is commonly framed into for the cariage thereof into other places, anno 11. H. 7.

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Cui in vita, is a writ of entrie, that a widow hath against him, to whome her husband aliened her lands or tenements in his life time: which must containe in it, that during his life time, she could not withstand it. Regist. orig. fol. 232. Fitz. nat. br. fol. 193. See the newe booke of

Entries. verho. Cui in vita.

Cuntey cuntey is a kind of triall, as appeareth by Bracton in these words: Negotium in hoc casu terminabitur per cuntye cuntey, sicut inter coharedes. Bracton. lib. 4.tra. 3. cap. 18. And againe, in the same place: In brevi de recto negotium terminabitur per cuntey cuntey. And thirdly, lib. 4. tract. 4. cap. 2. Terminabitur negotium per breve de resto: vbi nec duellum, nec magna assis, sed per cuntey cuntey omnino: which in mine opinion is as much, as the ordinarie surie.

Curfem, commeth of two French words, (couver.i.tegere,) and (feu.i.ignis.) We vie it for an evening peale, by the which the Conquerour willed every man to take warning for the raking vp of his fire, and the putting out of his light. So thatin many places at this day, wherea bell customably is rung toward bed time, it is faid to ring curfew. Stores annals.

Curia avisare vult, is a deliberation, that the court purposeth to take, vpon any point or points of a cause, before sudgement be resolved on. For this, see the new booke of Entries. verbo. Curia avisare vult.

Curia claudenda, is a writ, that lyeth against him, who should fence and close up his ground, if he refuse or deferre to doe it.

Regist

Register.orig.fo. 155. Fitzb.nat. br. fo. 127. See also the newe booke of Entrife, verbo. Curia claudenda.

Cursiter clericus de cursu, vel cursifta curia cancellaria)is an officer or clerke belonging to the chancerie, that maketh out originall writs. anno. 14 & 15. H.8. ca. 8. They be called clerks of course in the oathe of the clerks of the chancerie appointed anno 18. Ed. 3. stat. 3. ca. vnico. There be of these 24. in number, which haue allotted vnto every of them certaine shires, into the which they make out fuch originall writs, as are by the subject required, and are a corporation among themselues.

Curteyn (curtana) was the name of King Edward the fainct his fword, which is the first I fword, that is caried before the kings of this land at their coronation. Matheus Parisens in Henrico tertio. And I have heard fay, that the point thereof is broken: which may argue an embleme of mercie.

Curtilage. See Courtelage.

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Custode admittendo, & Custode amouendo, are writs for the admitting or remouing of gardians. Revister. original in indice.

Custom (consuetudo) is all one in fignification with our comhis mon lawyers and Civilians, being by them both accounted

a part of the lawe . Consuetudo quandog; pro lege servatur (faith Bracton) in partibus vbi fuerit more vtentium approbata. Longavi enim temporis vsus & consuetudinis non est vilis authoritas. li. 1. ca. 3. It may be thus not ynaptly defined: Custom is a lawe or right not written, which being established by long vie and the confent of our awncesters, hath beene and is daily practifed: our awaicesters, that is (maiores,) and those of our kindred that are vlira tritavum. li.4. S.parentem. T. de in ins vocando.l.v!t. 6. parentes. a. de gradibus & affini . & nominibus earum. So that allowing the father to be so much owlder then hisfonne, as (pubertas) or the years of generation doe require, the grandfather so much elder then him, and foe forth efque adtritavum; we cannot fay that this or that is a custom, except we can iustific, that it hath continued so one hundred yeares. For tritavus must be so much clder then the party that pleadeth it yet because that is hard to prooue: it is enough for the profe of a cuftom by witnesses in the common lawe (as I have credibly heard) if two or more can depose, that they heard their fathers fay, that it was a custome all their time, and that their fathers heard their fathers alfo fay, that it was likewife a custome in their time. If it

be to be prooved by record, the continuance of a hundred yeares will ferue. Custom is either generall or particular: generall I call that, which is current thorough England: whereof you shall read divers in the Dostor and Student. li. pri. ca. 7. very worthy to be knowne. Particular is that, which belongeth to this or that countie as Gavelkind to Kent, or to this or that Lord-Thip, citie, or towne. Custom differeth from prescription, for that custom is common to more, and prescription (in some mens opnion) is particular to this or that man. Againe, prescription may be for a farre shorter time then a custom, viz. for fiue yeare, or for one yeare, or lesse. Example of fine yeares prescription you have in the levying of a fine. For if a fine duly levied of lands &tenements benot impugned within fine yeres, it excludeth all claime for euer. And if a man omit his continuall claime for a yeere and a day: then the tenent in possession prescribeth an immunity against the entrie of the demandant and his heyre. Fazh. nat. tr. fo.79. Terms of the law. verbo. Continuall clayme. Out of our statutes you may have greater divertitie, which fee collected in mine Infticutes. entulo de V sucapro: de longi tempo prescript. So that Bristonius

h in his 1 4. de verbo fignif. feemeth to fay truly, that prescription is an exception founded ypon fo long time runne and past, as the lawe limiteth for the pursuite of any action. An example may be raken from those statutes. anno. 1. H. S.ca. A. which inacteth . that in all actions populer, information shall be made within three veares after the offence committed, or els be of no force. Of like nature is the statute, anno 7.H. 8.ca. 2. which in some cafes maketh one yeeres prescription sufficient against informations. Custome is also ysed for the tribute or tolle, that merchans pay to the king for carying in and out merchandise.anno 14. Ed. 2. ftat. 1. ca. 21. in which fignification it is latined (cuftuma) Register.orig.fo. 1 38.a. 129.a. and lastly for such services, as tenents of a maner owe vnto their lord. New booke of entries, verbo Custome.

Customary tenents, (tenentes per consustudinem) are such tenents, as hould by the custome of the maner, as their especiall cuidence. See Copiboulds.

pall clerk belonging to the court of common plees: whose office is to receive and keepe all the writes, and put them upon files, energy returne by it selfe, and at the end of every termero receive

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of the protonotaries all the records of (Nisiprius) called the (posten) For they are first brought in by the clerk of affife of eucry circuit to the protonotarie that entred the iffue in that mater, for the entring of the judgement. And then doe the protonotaries get of the court peremptory day, for every party to speake what he hath to alleage in arrest of iudgement: which day being past, he entreth the verdict and iudgement thereupon into the rols of the court : and that done, he doth in the end of the tearme deluer ouerto the custos brenium. all the records of (Nisi prius) which came to his hand that terme: which received he bindeth into a bundle and bestoweth them. The custos breuium also matined keth entry of the writs of coue. nant, and the concord vpon euery fine: and maketh forth exemplifications and copies of all writs and records in his office, and of all fines leuied. The fines after they be ingroffed, the parts therofare divided betwen the custos bremium and the chirogropher: whereof the chrogropher keepeth alwaies with him the writ of coulenant and the note, the custos bremium keepeth the concord and the foote of the fine, vpon the which foote the chirographer doth cause the proclamations to be indorfed,

when they be all proclaymed. This office is in the princes

gift.

Custos placitorum covona. Bra-Ston li. 2. ca.s. This seemeth to be all one with him, whome we nowe call (custos rotulorum) of this officer I finde mention in the writ (odio & atia) Register.

original.fo. 132.b.

Custos rotulorum, is he, that hath the custodie of the rols or records of the sessions of peace: and (as some thinke) of the commission of the peace it selfe. Lamb. Eirenarch. li. 4.ca.pa. 2. 272. He is alway a Iuflice of Peace and Quorum, in the countie where he hath his office. Idem. eodem. and by his office he is rather termed an officer or minister then a judge : because the commission of the peace layethe, by expresse words this especiall charge vpon him: quod ad dies & loca praduta, breuia, pracepta, processus, & indictamenta predicta coram te & dittis focus tuis venire facias. Idem. codem. where read a competent tract of other things belonging to this reall. For after verdick soifto

Custos of the spiritualties (custos (piritualitatis vel (piritualium) is he that exercifeth the spirituall or ecclehanicall inrifdiction of any dioces, during the vacancie of the Seen the appointment of whome by the canon lawe apreperteineth to the deane and chapter.ca ad abolendam, Extra. Ne sede vacante aliquid innovetur. but with vs in England to the Archbishop of the province by prescription. How be it divers deanes and chapters (if M. Gwin say truly in the presace to his readings) doe chalenge this by awncient charters from the kings of this land.

Cutter of the talyes, is an officer in the exchequer, that provideth wood for the talyes, and cutteth the summe paid vpon them, and then casseth the same into the Court to be written

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Dammage, commeth of the french (dam) or (domage) fignifiing generally any hurt or hinderance, that a man taketh in his estate: But in the common lawe, it particularly fignifieth a part of that the Iurours beto inquire of, passing for the plaintiffe or demandant in a ciuile action, be it personall or reall. For after verdict giuen of the principall cause, they are likewife asked their confciences touching costs (which be the charges of suite, called of the Civilians (expensa litis) and dammages, which conteine the hindrance that the plaintiffe or demandant hath suffered by meanes of the wrong done to him by the defendant or tenent.

Dane quilt, Danegold, or Danegelt (Danegeldum) is compounded of (Dane and gelt. i.pecunia) and was a tribute laide voon our ancesters of 12. pence for euerie hide of land through the realme by the Danes, that once got the masterie of vs, in regard (as they pretended) of clearing the sease of pyrates, which greatly annoyed our land in those daies. Cambd. Brittan. 82. with whome agree the lawes of Edward set out by M. Lamberd. ca. II. Stowe in his annals, pa. 118. faith, that this tribute came to 40000 pownds by the yeare, and that it was released by Edw. the confessour. The author of the newe Terms of law faith, that this tribute began in the time of king Etheldred, who being fore distreffed by the continual inuasion of the Dane, to procure his peace, was compelled to charge his people with importable payments. For first he gaue them at fine severall paiments 113000. poundes, and afterward graunted them 48000.poundes yeerely. See Roger Houeden parte poster. Suorum annalium in Hexrico fecundo fo. 344.a.

Dareyn continuance, See Continuance. Darein is a corrupt word

of the French (dernier. i. vlti-

Darrein presentment (vltima prasentatio.) See Assis er darreyn

presentment.

Dates (dally li) is the plumme or fruite of the tree in latine called palma, in english the Date tree well knowne to most men by sight. And he that will farder vnderstand the nature or diversities of this fruite, may repaire to Gerards herball. li. 3.ca. 131. They be numbred among spices and drugs to be garbleled. 1.

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Day(dies) is sometime vsed in the lawe, for the day of appearance in court, either originally, or vpon affignation; and fometime for the returnes of writs. For example, daies in bank, be daies fet downe by statute or order of the court, when writs shall be returned, or when the partie shall appeare vpon the writ ferued . And of this you may read the statutes, anno 51.H. 2. ca.1. 6 2. Marlb.ca. 12. anno. 52. H.z. and the flatute de anno biffextili.anno 21.H. 3. and laftly anno 32. H. 8. ca. 21. To be difmissed with out day, is to be finally discharged the court. Kitchin fo. 193. He had a day by the rolle. Kitchin. fo. 197. that is, he had a day of appearance affigned him. Day, yeere, and waste. Sea Dies, and yeare.

Deadly feude (fenda) is a profession of an ynquencheable hatred, yntill we be reuenged, even by the death of our enemie. It is deduced from the German word (Feed) which, as Hotoman saith, in verbis feudalibus, modo bellum, modo capitales inimicutas significat. This word is ysed.anno. 43. Eliz. cap. 13.

Deadpledge(mortuum vadium)

See Mort gage.

Deane, (decanus) is an ecclesiasticali magistrate, so called of the greeke (Sena) because he hath power ouer ten Canons at the least. How be it in England we vse to call him a deane, that is next under the bishop, and cheife of the chapter ordinarily in a cathedrall church: and the rest of the societie or corporation we call Capuulum, the chapter. But this word how diverfly it is vsed, read Lindwood. titulo de iudicus ca.pri. verbo Decani rurales. where deane rurals are saide to be certaine persons that have certaine jurisdiction ecclesiasticall ouer other ministers and parishes neere adioyning, affigned vnto them by the Bishop and archdeacon, being placed & displaced by them. As there be two foundations of cathedrall churches in England, the old,& the new (the new bethose which Henry the 8. vpon suppression of abbeyes transformed from X 3 abbot

abbot or prior & couet to deane and chapter) fo be there two meanes of creating these deanes. For these of the old foundation, are brought to their dignitie much like Bishops: the king first seding out his conge d'estre to the chapter, the chapter then chusing, the king yeelding his royal affet, and the Bishop confirming him, and giving his mandate to installe him. Those of the newe foundation are by a shorter course installed by vertue of the kings leters patents, without either election or confirmation. This word is also applyed to diuers, that are the chiefe of certaine peculiar Churches, or chapels, as the deane of the kings chapell, the deane of the Arches, the deane of Saint George his chapell in Windfour, the deane of Bockin in Esex.

Debet & folet: These words are divers times ysed in the writers of the common lawe, and may trouble the minde of a young student, except he have some advertisement of them. For example, it is saide in the old. nat. br. fo. 98. This write de setta molendini) being in the (debet) and solet) is a writ of right, &c. and againe. fo. 69. A writ of Quod permittat) may be pleaded in the countie before the shyrecue, and it may be in the (debet) and in the (solet) or the (debet) with out

the (folet) according as the Demandat claymeth.wherfore note that those writs that be in this fort brought, haue these words in them, as formall words not to be omitted. And according to the diuerfity of the case, both fdebet)and (faler) are vied, or (debet)alone: that is, if a man fiew to recouer any right by a writ. whereof his awncester was disfeifed by the tenent or his awncefter, then he vieth onely the word (debet) in his writ: because (folet) is not fit by reason his awncester was disseised, and the custome discontinued: but if he fiew for any thing, that is now first of all denied him, then he vseth both these words (debetes (6/et) because his awncesters before him, and he him felfe vfually inioved the thing fiewed for: as suite to a mille, or common of pasture vntill this present refusall of the tenent. The like may be saide of (debet) and (det met) as appeareth by the Register orig, in the writede debito.fo. 140.a.

Debito, is a writ which lieth, where a man oweth to another a certaine fumme of mony vpo an obligation or other bargain, for any thing fold vnto him. Fuz.mat br. fo. 119. This writ is made fontime in the Detinet, & not in the Debet. which properly falleth out, where a man oweth an annuitie; or a certaine quantity of

wheat,

wheat, barley, or fuch like, which he refuseth to pay.old.nat. br.fo. 75. See Debet & Solet.

Denelage (denelagia) is the law that the Danes made heere in England, out of which and Merchenlage, and West Sexonlage, the Conquerour compounded certaine ordinances for his subiects. Camdeni Britan.pa. 94. & pa. 183.

Decem tales. See Tales.

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Decies tantum, is a writ that lieth a gainst a Iurour, which hath taken mony for the giving of his verdict, called fo of the effect, because it is to recouerten times so much as he tooke. It lieth also against embracers that procure fuch an enquelt. anno 38.Ed. 3.ca. 13. Reg. orig. fo. 188. Fizh.nat.br.fo.171. New booke of Entrife.verbo Decies tantum.

Deceyte (deceptio fraus, dolus) is a subtile wille shift or deuise, hauing noe other name. Hereunto may be drawen all maner of craft, subtiltie, guile, fraude, wilynes, flightnes, cunning, couin, collusion, practife, and offence, vsed to deceive another man by any meanes, which hath none other proper or particular name, but offence. West parte. 2. symbol. titulo. Indistments fest. 68. See Conotil fening.

Decenniers. See Deciners.

Deceptione, is a writ that lieth properly against him, thatde-

ceitfully doth any thing in the name of another, for one that receineth harme or damage therby. Fitzh.nat. br. fo. 95. This writis either originall or indiciall, as appeareth by the old nat. br.fo.50. where you may reade the vie of both. For some satisfaction, take these words of that booke: This writ of deceit, when it is original, then it lieth in case, where deceit is made to a man by another, by which deceit he may be difherited, or otherwise enill intreated:as it appeareth by the Regifer, &c. And when it is indiciall, then it lieth out of the rols of record: as in case where (fore facias) is sent to the Shyrecue, that he warne a man to be before the Justices at a certaine day, and the Shyrecue returne the writ scrued; whereas the faid man was not warned, by which the partie that fleweth the (feire facias)reconcreth, then the party which ought to have beene warned, shall have the faide writ against the Shyrccue. The author of the termes of lane. verbo Deceite, faith that the originall writ of deceite lieth, where any deceit is done to a man by another, fo that he hath not sufficiently performed his bargaine or promise, In the writindicial he concurreth with the former booke. See the Reg orig. fo. 1 1 2. and the Reg indiciall in the table. verbo Deceptione.

Decimis folvendis pro possessionsbus alienigenarum, is 2 writ or leters patents, yet extant in the Register, which laye against those, that had fermed the Priors aliens lands of the king, for the Rector of the Parish, to recouer his tythe of them. Regi.

orig. fol. 179. Deciners, alias, desiners, alias, doziners, (decennarii) commeth of the French, (dizeine. i. decas) tenne in number, or else of (disenier.i.decearchus.) It signifieth, in the auncient monuments of our lawe, fuch as were wont to haue the ouerfight and checke of ten friburgs, for the maintenance of the kings peace. And the limits or compasse of their iurisdiction was called (decenna) Bracton lib. 3. tract. 2. cap. 15. of whom you may also reade, Fleta lib. 1.cap. 27 and a touch in the Regist.orig.fol. 68.b. These seemed to have large authoritie in the Saxons time, taking knowledg of causes within their circuite, and redreffing wrongs by way of judgement, as you may reade in the lawes of king Edward, set out by M. Lambard. num. 32. In later times I find mention of these, as in Britton cap. 12. who faith in the kings person (as he writeth his whole booke) in this maner: We will, that all those which be 14. yeares old, shall make oath, that they shall be sufficient and loyall

vnto vs, and that they will be neither felons, nor affenting to felons: and we will, that all be (en dozeine (p!evis per dozeniers) that is, professe themselves to be of this or that dozein, and make or offer suretie of their behauiour by these or those doziniers: except religious persons, clerks. knights, and their eldest sonnes. and women. Yet the same authorin his 29. chapter, some thing toward the end, doth fav. that all of 12. yeares old and vpward, are punishable for not comming to the Turne of the Shyreeue, except Earles, Prelats. Barons, religious persons, and women. Stawnf. pl. cor. fol. 37. out of Fitzh. hath these wordes: The like lawe is, where the dozeniers make presentment, that a felon is taken for felonie, and deliucred to the Shyreeue,&c. And Kitchin, out of the Register, and Britton, faith thus. Religious persons, clerkes, knights, or women shall not be deceniers. fol. 33. So that hereby I gather, that of later times, this word fignifieth nothing but fuch an one, as by his oath of loyaltie to his Prince, (for furctie none ordinarily findeth at these dayes) is setled in the combination or focietie of a dozein. And a dozein teemeth now to extend fo farre, as every leete extendeth: because in leetes onely this oathe is ministred

ministred by the steward, and taken by fuch as are twe lue yeares old and vpwards, dwelling within the compasse of the leete where they are fworne. Fitz.nat. br. fol. 161. A. The particulars of this oath you may reade in Bratton. lib. 3. tract. 2. cap. 1. num. 1. in these words: Quibus propositis (that is, the commission of the Instices being read, and the cause of their comming being shewed) debent Insticiarii se transferre in aliquem locum secretum, & vocatis ad se quatuor vel sex, vel pinribus de maioribus de comitatu, qui dicuntur Busones Comitatus, & adquorum nutum dependent vota aliorum, et sic inter se trastatum habeant Insticiarii ad muicem, & ostendant qualiter a Domino Rege & eius concelio provisum sit, quod omnes tam milites, quam alii qui sunt quindecim annorum & amplius, iurare debent, quod vilagatos, murditores, robbatores, & burglatores non receptabunt, nec eis consentient, nec eorum receptatoribus, or si quos tales nouerint, illos attachiari facient, & hos Vicecomiti & balinis suis monstrabunt: & si butesium vel clame. um de talibus audiverint, statim audito clamore, sequantur cum familia & hominibus de terra sua. Here Bracton setteth downe 15. yeares, for the age of those that are sworne to the kings peace, but lib, 3. tract. 2. cap. 11.

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num. s.he nameth 12.yeares. Sec Inlaughe. A man may note out of the premisses, diuersities betweene the auncient and thefe our times, in this point of law and government, as well for the age of those that are to be fworne, as also that Decenner is not now vsed for the chief man of a Dozen, but for him him that is fworne to the kings peace: and laftly, that now there are no other Dozens but leetes, and that no man ordinarily giueth other security for the keeping of the kings peace, but his owne oathe : and that therefore none aunswereth for anothers transgreffion, but every man for himfelfe. And for the general ground this may suffice. See Frankepledge.

Declaration (declaratio) is properly the shewing foorth, or laying out of an action personall in any suite, howbeit it is vsed sometime and indisferently for both personall and reall actions. For example, anno 36. Ed. 3. c. 15. in these words: By the auncient termes and some sof declarations, no man shall be prejudiced: so that the mater of the action be fully shewed in the demonstration & in the writ: See the new Termes of lawe. See Counte.

Dedmus potestatem, is a writ, whereby commission is given to

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a private man for the speeding of some act appertaining to a Iudge. The Civilians call it (Delegationem) And it is graunted most commonly vpon suggestió, that the partie, which is to doe something before a ludge, or in court, is so feeble, that he cannot trauell. It is vied in divers cafes: as to make a personall aunfwer to a bill of complaint in the Chauncerie, to make an Atturnev for the following of a fuite in the Countie, Hundred, Wapentake, &c. Old nat. br. fol. 20. To levie a fine. West. part. 2. symbol. titulo. Fines. fect. 112. and diuers other effects, as you may fee by Fitzh. nat. br. in divers places noted in the Index of the booke: In what diversizie of cases this writ or commission is vsed, fee the table of the Regist. orig. verbo Dedimus potestatem.

Deedes, (Facta) signifie in our commo law wrightings, that containe the effect of a contract inade betweene man and man, which the civilians call (literarum obligationem) And of deeds there be two forts, deeds indented and deeds polls Which divis fion; as M. West faith pance i. Simbel: lib. 1. fect. 46. groweth from the forme or fashion of them; the one being cut to the fashion of teeth in the toppe or fide, the other being plaine. And the definition of a deede indented he

expresseth thus Sett. 47. A deed indented, is a deede confilling of two partes or more, in which it is expressed, that the parties to the fame deede, have to every parte thereof interchangeabely. or scuerally set there seuerall seales. See the rest, where at the last he sheweth the cause of the name : viz : for that confifting of more partes, eche parte is indented or cut one of them into the other, that by the cut it may appeare, they belonge to one busines or contract. A deede poll or polled he describeth thus : Sect. 46. 2. A polled deede, is a deede tellifying, that onely the one of the parties to the bargaine, hath put his scale, thereunto, after the maner there by him described: which reade for your beter undeistanding. See the newe Tearmes of lawe, verbo Fait, where he sheweth, that each deed confifteth of 3. points: writing, fealing, and deliveric. one en conferment

Deere Hayfe. anno 19. H. 7. cap. 11. seemeth to be an Engine of cords, to catch Deere.

De esfendo quietum de telonio, is a writ that lyeth for them which are by priviledge freed from the payment of tolle, which reade at large in Fitzh. nat br. fol. 226.

Defalt (defalta) commeth from the French (Defaut) and is an offence in omitting that,

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which we ought to doe. West. part. 2. Symbol. titulo, Indictment. set. 2. Of this hath Bracton a whole tractats, lib. 5. tractat. 3. By whome it appeareth that a default is most notoriously taken for non appearance in court, at a day assigned. Of this you may reade also in Fleta. lib. 6. cap. 14.

Defeisance (defeisantia) commeth of the French (Destaire) or Destaire) i. infectum reddere quod sactumest, and signifieth in our common lawe, nothing but a condition annexed to an act, as to an obligation, a recognizance or statute, which performed by the obligee or recognizee, the act is disabled and made voide, as if it neuer had bene done, whereof you may see West at large, part. 1 symb. li. 2. sect. 156.

Defendant (defendens) is he that is siewed in an action personall: as tenent, is he which is siewed in an action reall. Tearmes of the

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Defendemus, is an ordinarie word in a feofment or donation, and hath this force, that it bindeth the donour and his heyres, to defend the Donee, if any man goe about to laye anie feruitude vpop the thing given, other then is contained in the donation. Bratt.lib.2.cap.16.

num. 10. See also Warrantizabimus.

Defender of the faith (defensor fides) is a peculiar title given to the King of England by the Pope, as (Catholicus) to the king of Spaine, and Christianissismus to the French king. It was first given by Leo decimus to king Henry the 8. for writing against Marim Luther, in the behalfe of the Church of Rome, then accounted Domicilium sidei Caholicae. Stowes annals. pag. 863.

Defor (our, (Deforciator) commeth of the french (For ceur .i. expugnator). It is vsed, in our common law, for one that ouercommeth and casteth out by force, and differeth from diffeisour first in this, because a man may diffeise another without force, which act is called simple disteilin. Britton.ca.5 3. next, because a man may deforce another, that neuer was in possession: as for example: if more haue right to lands, as commo heires and one entring keepeth out the rest, the law faith, that he deforceth them, though he doe not disseise them .Old nat : br: fol: 118. and Litleton in his chapter (Discontinuance) fol. 117. faith, that he which is infeoffed by the tenent in taile, and put in possesfion, by keeping out the heire of him in reuersion being dead, doth deforce him, though he did not disseise him; because he entred, when the tenent intaile

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was liuing, and the heire had noe present right. And a deforsour differreth from an Intrudour, because a man is made an Intrudour by a wrongfull entry only into land or tenement voide of a possessour. Bracton li: 4: ca: pri. and a deforsour is also by houlding out the right heire, as is about a deformation.

Delinerance, See Repligiare.

Demaund, (Demanda vel Demandum) commeth of the french (Demande. i. postulatio, postulatus) and fignifieth a calling vpon a man for any thing due. It hath likewise a proper fignification with the common lawyers op posite to plaint. For the pursute of all civill actions are either demaunds or plaints: and the perfyewer is called demaundant or plaintife: Viz: Demandaundant in actions reall, and plaintife in personall. And where the party perfiewing is called demaundat, there the party perfiewed is called tenent: where plaintife, there defendant. See terms of law verbo Demaundant.

Demy haque, See Haque, and

Haquebut.

Demaine, (Dominicum) is a french word, otherwise written (Domaine) and fignifieth (Patrimonium domini) as Hotoman saith in verbis feudalibus. verbo Dominicum. where by divers authorities he proueth those lands to be

dominicum, which a man holdeth originally of himselfe, and those to be feodum, which he holdeth by the benefite of a superiour Lord. And I find in the civill law (Rem dominisam) for that which is proper to the Emperour. Cod. Ne res dominica vel templorum vindicatio temporis prascriptione Submoueatur, being the 38. title of the 7. booke. And (res dominici iuris. i. reipub. in the same place. And by the word (Domanium) or (Demanium) are properly fignified the kings lands in Fraunce, appertaining to him in propertie, Quia Domanium defi. niturillud, quod nominatim confecratum est, vnitum, & incorporatum Regia corona, ut scripsit Chopinus de domanio Francia tit. 2. per legem. Si quando 3. Cod. de bon.va. can. lib. 10. & Mathaus de Af. flictis in constit. Sicilia li. 1. tit. De locatione Demarii. 82. which may be called Bona incorporata & in corpus fisci redacta. Skene de verborum signif. verb. Terra Dominicales. In like maner doe we vie it in England: howbeit, we here haue no land (the Crowne land onely excepted) which holdeth not of a superior. For all dependeth either mediatly or immediately of the Crowne, that is, of fome honour or other belonging to the Crowne, and not graunted in fee to any inferior person. Wherefore no common person

hathany demaynes, fimply vnderstood. For when a man in pleading would fignifie his land to be his owne, he faith, that he is or was feifed thereof in his demaine as of fee. Litleton li. I. cap. 1. Whereby he fignifieth, that though his land be to him and his heyres for euer, yet it is not true demaine, but depending vpon a superior Lord, and holding by seruice, or rent in liewe of seruice, or by both seruice and rent: Yet I find these words vsed in the kings right, anno 37. H.8. cap. 16. and 39. Eliz. cap. 22. But the application of this speech to the king and crowne land, is crept in by errour and ignorance of the word (Fee,) or at least by understanding it otherwise then of the Feudists it is taken. But Britton. cap. 78. Theweth, that this word (Demeyne) is diverfly taken: sometime more largely, as of lands or tenements held for life, &c. and sometime more strictly as for fuch onely as are generally held in fee. This word fomtime is vsed for a distinction between those lands, that the Lord of a maner hath in his owne hands, or in the hands of his leafee, dimised vpon a rent for tearme of yeares or life, and fuch other lad appertaining to the faid maner, which belongeth to free or copy-houlders. Howbeit, the copyhold belonging to any ma-

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ner, is also in the opinio of many good lawyers accounted Demeines. Bracton in his fourth booke tract. 2. ca. 9. nu. 5. hath these words: Item dominicum accipitur multipliciter. Est aute dominicum quod quis habet ad mensam Suam & proprie, sicut sunt Bordlands anolie. Item dicitur dominicum villenagium, quod traditur villanis, quod quis tempestue & intempestine resumere possit pro voluntate sua, & renocare. Of this Fieta likewise thus writeth: Dominicum est multiplex. Est autem Dominicum proprie terra ad mensam assignata, & villenao ium quod traditur villanis ad excolendum, & terra precario dimissa, que tempestiue & pro voluntate domini poterit renocari: & sieut est de terra commissa, tenenda quam din commissori placuerit. poterit & dici Dominicum, de quo quis habet liberum tenementum, & alius vsumfructum: & ettam vbiquis habet liberum tenementum, & alius curam, sicut de custode dicipoterit & curatore; & unde unus dicitur a iure, alius quoque ab homme. Dominicum etiam dicitur ad differentiam eius quod tenetur in seruitio. Dominicum est omne illud tenementum, de quo antecessor obist seisitus vt de feudo, nec refert cum v sufructu vel sine, & de quo si eiectus eset, si vineret, recuperare posset per assissam nomine disseising, licet aisus haberet vsum - considerable Y 2 on frufrustum: ficut dici poterit de ilis qui tenent in villenagio, qui veuntur, fruuntur non nomine proprio sed nomine Domini sui. Fleta: l. 5. c: 5.5. Dominicu aute. And the reaso why copyhold is accounted Demeanes, is because they that be tenents vnto it, are indged, in law, to haue nor other right, but at the will of the lord. Soe that it is reputed still after a fort to be in the Lords hands. And vet in common speach, that is called ordinarily Demeanes, which is neither free nor copy. It is farder to be noted, that Demaine is sometime ysed in a more speciall fignification, and is opposite to Franck fee. For example, those lands, which were in the possession of King Edward the confessor, are called auncient Demaine, & all others be called Franck fee. Kitchin. fol: 98. and the tenents which hould any of those lands, be called tenents in auncient demaine, the others tenents in franck fee. Kitchin vbi Supra. And also tenents at the common lawe. West. parte 2. Simbol: titulo Fines. Sect 25. The reason is, because tenen's in auncient Demaine, cannot be fyewed out of the Lords court: Tearmes of the Lawe. verbo Auncient Demaine. And the tenents in aunciet demaine, though they hould all by the verge, and haue none other enidece but copy of court rolle, yet they are saide to haue free hould. Kitchin, fol. 81. See Awncient demame.

Demayne cart of an Abbot, seemeth to bee that cart, which the Abbot vseth vpon his owe Demaine: Anno.6.H.3.cap.21.

Demurrer (Demorare) commeth of the French (Demeurer. imanere in aliquo loco vel morari) It fignifieth in our common lawe, a kinde of pawfe vpon a pointe of difficultie in any action, and is ysed substantiuely. For in every action, the controverse consisteth either in the fact, or in the lawe, if in the fact, that is tried by the Iurie, if in lawe, then is the case plaine to the Indge, or fo hard and rare, asit breedeth iust doubt . I call that plaine to the Iudge, wherein hee is affured of the lawe, though perhaps the partie and his councell yeeld not vnto it. Andin fuch, the Judge with his Affesfors proceedeth to Judgement without farder worke: but when it is doubtfull to him and his Affociates, then is there stay made, and a time taken, either for the court to thinke farder vpon it, and to agree if they can: or els for all the Iustices to meete together in the Chequer chamber, and vpon hearing of that which the fergeants shall say of both partes, to advise and set downe what is lawe. And whatfocuer they con-

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clude, standeth firme without farder remedie. Smith. de Repub. Anglo.lib.2.cap.13.West. calleth it a Demarrer in chauncery likewise, when there is question made whether a parties answer to a bille of complaint, &c. be defective or not: and thereof reference made to any of the bench for the examination therof, & report to bee made to the court.parte. 2.symb.tit.Chauncery. sett.29.

Denariata terra. See Farding

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Denizen, commeth of the ad, French (Donaison, i. Donatio) and fignifieth in our common lawe, an Alein that is infrachifed here in England by the Princes charla ter, and inabled, almost in all respects, to doe as the kings native subjects doe:namely to purchas, and to possesse lands, to be capable of any office or dignitie. Yet it is faide to be short of naturalisation, because a straunger naturalised, may inherit lands by descent, which a man made made onely a denizen cannot. the And againe, in the charter in whereby a man is made denizen, there is commonly conteined fome one clause or other, that and ahridgeth him of that full benchein fite, which naturall subjects doe me, injoy. And when a man is thus will infranchised, he is saide to bee bey vinder the kings protection, or,

este adsidem Regis Anglia, before which time he can inioy nothing in England. Bratton.lib.5. trattat.5.eap.25.nu. 3. Nay, hee and his goods might bee seised to the kings vsc. Horn in his mirrour of Instices. li. 1.ca. de la Venue de franc plege.

Deodand (Deodandum) is a thing given or forfeited (as it were)to God for the pacification of his wrath in a case of misaduenture, whereby any Christian soule commeth to a violent ende, without the fault of any reasonable creature. For example, if a horse should strike his keeper and fo kille him; if a man in dryuing a cart, and feeking to redreffe any thing about it, should so fall, as the cart wheele running over him, should presse him to death: if one should be felling of a tree, and giuing warning to one coming by, whe the tree were neere falling, to looke to themselues, and any of them should bee flaine neuertheleffeby the fall of the tree. In the first of these cases the horse, to in the second the care wheele, carte and horses, and in the third the tree is to be guen to God: that is, to be fold and distributed to the poore, for an expiation of this dreadfull euent, though effected by vnreasonable, yea fenfles & dead creatures. Stan nfpl.cor.lib. 1.ca. 2. whereof

also read Bracton lib. 2. tractat. 2. cap. 5. and Britton. cap. 7. and West parte. 2. symboleog. titulo Indistments. sect. 49. And though this be given to God : yet is it forfeited to the king by lawe, as fusteining Gods person, and an executioner in this case, to see the price of these distributed to the poore, for the appealing of God stirred vp euen against the earth and place, by the shedding of innocent blood thereupon. Flota, faith that this is fould, and the price distributed to the poore for the foule of the king, his auncesters, and of all faithfull people departed this life. lib. I. cap. 25. verbo. De submerfis. And it feemeth that this law hath an imitation of that in Exodus. cap. 21. Si cornu petierit bos virum vel mulierem, ita vi moriatur, lapidabitur bos, neg, comedetur care esus, as Dominus eius erit

De Deonerando prorata portionio, is a writ that lieth where one is distrained for a rent, that ought to be paid by others proportionally with him. For exaple, a man holdeth ten Oxegangs of land by fealty, and tenshillings rent of the king, and alienateth one Oxegang thereof to one, another to another in fee. Afterward the Shyreeue or other Officer commeth and distraineth onely one of them for the Rent.

he that is distrained may hat this writ for his helpe. Fitzb.na br.fo.234.

Departer, is a word properly vsed of him, that first pleading one thing in barre of an action and being replied thereunted doth in his reloynder shew and ther mater contrary to his stronger. Plowden in Reniger and Fogassa, fo.7. & 8. And of this sed divers examples in Brooke. titus Departer de son plea.

Departers of gold and filner. Se

Emours.

De quibus sur disseisin, is a wi of entry. See Fitzh. nat.br.fo 191.C.

Dereyne (Difrationare, vel D rationare) may feeme to come the French (Difarroyer. i. confun dere, turbare) to confound o turne out of order, or (de franger to fet out of order, or laftly of th Morman word (defrene) for wil the Normans (defrene) is nothin else but a proofe of the denia of a mans owne fact. For Rubig neus in his grand custumarie ca 122.6 123.maketh mention (lex probabilis) and (lex derai nia) legem probabilem or (probi tionem) he defineth to bee proofe of a mans owne fac which he faith he hath done, his aduersarie denieth. His exan ple is this: A. lieweth R. for hogge:laying, thou fhouldeft d liver mee a hogge for 2. Shilling fixe pence: which mony F. paid thee:wherefore I demande my hogge. R. answereth. It is true pro that thou faiest, and I delivered thee thy hog, which I am ready to prooue. Deraisnia he defineth, to be a proofe of a thing that one denieth to be done by himfelfe, which his adversarie saith was done, defeating or confounding his adversaries affertion (as you would fay) and shewing it to be without and against reaof or likelyhood, which is avouched. In our commo lawe it is vfed diverfly, first generally, for nto produc: as Dirationabit ins suum heres propinquior. Glanuile li. 2. cap. 6. and Habeo probos homines, and qui hoc viderunt & audierunt, & parats funt hos dirationare. Idem confolib. 4. cap. 6. and (Dirationauit terofframillam in curia mea) Idem lib. old 2. cap. 20. 1. hee prooued that land to bee his owne, &c. and pertinentiam eam dirationauit in of wita sua, vel also modo inste perqui-Affilioit) Idem, lib. 6. cap. 12. and Bracton vseth it after the same fort, in these words: Habeo sufdissipation distration inationem & proilmon bationem. lib. 4. trasta: 6 cap. 16. eth to and so he vieth (difrationare) lib. nson 4. cap. 22. and foin Westm. 2. hath anno. 13. Ed. pri: ca. 32. an to dereine the warrantie old. weth lat. br. f. 146. & to dereine the marraty paramout. an. 31. H.8.c. for primo. And dereigner le Warranty

in Plond.casu Basset in fine. 2. partis fo. 6.7.6 8.a. hath the same signification. So it is vsed, Westm. 2. cap. 5. anno. 13. Ed. 1. in these words: And when the person of any Church is disturbed to demaund tithes in the next parish, by a writ of (Indicanit) the patron of the Parson so disturbed to demaund tithes, shall have a writ, to demaund the Advowsen of the tithes being in Demaund: and when it is deraigned, then shall the plee passe in the court christian, as farre forth as it is deraigned in the kings court. Bracton also, li.z. tracta.z.cap. 3. nu. 1. speaking of him that appealeth another for any treafon orfelonie, hath these words. Proposat accusans appellum suum in hunc modum, sc: deket dicere se interfuisse, & vidisse certo loco, certo die, certa bora, & scivisse ipsum accusatum prelocutum fuisse mortem regis, vel seditionem suam, vel exercitus sur, vel consensisse, vel auxilium & consilium impendisse, vel ad hoe authoritatem prestitisse: & hoe ego iuxta considerationem curie disrationare paratus sum. He vieth it likewife as the Normans vie (Deraisniam) for him, that offereth to justifie his deniall: as lib. 3. tracta. 2. cap. 28. nu. 1.in these words. Rex consilio episcorum & bonorum miss propter comitem, vt statuto die veniret ad curiam, ad distrationandum vel defendendum

se,

le sposset. Lastly in some places I find the substantine (deremement) vied in the very literall fignification of the french (Difrayer) or (defranger) that is, as a man wold fay, turning out of course, difplacing or fetting out of order: as dereinement or departure out of religion. anno 31. H. 8. cap.6. and dereinment or discharge of their profession. anno 33.H.8.cap. 29. which is spoken of those religious men, that forfooke their orders and professions: as also anno 7. 6 6. Ed. 6. cap. 13. Soc doth Kitchin vie the verb fo. 152. in these words : the leassee entreth into religion, and afterward is dereigned. And Britton vieth these words (Semounse desrenable) for a summons that may be chalenged as defective or not lawfully made, cap. 21. Of this you may reade fomething more in Skene de verb. signif. verbo Difrationare, where in one fignification he confoundeth it with our waging and making of lawe.

De sontort demesse, seeme to be certaine words of forme in an action of trespasse, vied by way of reply to the plee of the Desendant. For example: A. sieweth B. in action of trespasse. B. answereth for himselfe, that he did that which A calleth a trespasse, by the commaundement of C. his maister. A saith againe, that B.

did it de son tort demesne, sans ceo que. C. luy commaunda modo & forma, that is: B. did it of his owne wrong, without that that C. commaunded him in such forme. crc.

Detine: Sce Debito and De-

Detynem (detinendo) is a writ that lyeth against him, who having goods or chatels deliuered him to keepe, refuseth to deliuer them againe. See of this Fitzh. nat. br. fol. 138. To this is answerable in some fort (actio depositi) in the civile lawe. And hee taketh his action of ditinew, that intendeth to recover the thing deliuered, and not the dammages sustained by the detinew. Kitchin fol. 176. See the new booke of Entries. verbo, Detinew.

Devastaverunt bona testatoris, is a writ lying against executors, for paying Legacies and debts without specialties, to the preindice of the creditours that have specialties, before the debt vpon the said specialties be due. For in this case, the executors are as lyable to action, as if they had wassed the goods of the testatour riotously or without cause. New termes of lawe.

Devest (devestire) is contrarie to Invest. For as Investire fignifieth possessionem tradere. So (devestire) is (possessionem auferre) feud.

116

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Devise, alias, divise commeth of the French (dwifer, i. dispertiri, discernere, separare, distinguere) as (divifer par ci & par la, distribuere.) This word is properly attributed in our common lawe to him, that bequeathes his goods by his last will or testament in writing: and the reason is, because those that now appertain onely to the Dev four, by this act are distributed into many parts. Wherefore I thinke it better written divise the deuise, howbeit, it were not abfurd to derive this word from the French (deusfer) i. sermocinae da ri, fabulari, consilium conferre. For inthis sence it agreeth in some th fort with the nature of the act of the testator, and with the STOR Etymologie of a testament set downe by Instinian, who faith, 14 情 de la comp that testamentum is (quasi mentis testatio. titulo. de Testa. ordinan. in Institut. and test atio mentis cannot be so well, as by talke and conference with our wife and skilfull friends.

Devoires of Cales, anno 2. R. 2. Stat. 1. cap. 3. 6 anno 5. esusdem, flat. 2.cap. 2. were the customes due to the king for merchandize brought to or caried out from Caleis, when our Staple was there. The word is French, fignifying as much as (officium) dutic. nedr a hemanoling ash soin

Devorce, alias, divorce (divortium) is with our common Lawyers, accompted that separation betweene two de facto maried together, which is a vinculo matrimonii, non solim à mensa & there. And therefore the woman fo divorced, receiveth al againe that shee brought with her. This is not, but onely yoon a nullitie of the mariage through some essentiall impediment, as confanguinitie or affinity within the degrees forbidden, precontract, imporencie, or such like. See the new Tearmes of lawe.

Diem clausit extremum, is a writ that lyeth for the heyre of him that holdeth land of the Crowne, either by Knights feruice or in soccage, and dyeth, be he under or at full age, directed to the escheatour of the county for inquirie to bee made by him, of what estate the partie deceased was seised, and who is next heyre vnto him, and of what valew the land is. The forme thereof and other circumstances, you may learne in Fitzh. nat. br. fol. 251.

Dyer, was a learned Lawyer, and Lord chiefe Iuffice of the Common plees, in the dayes of Queene Elizabeth: who writ a booke of great accompt, called his Commentaries or Reports.

Dies datus, is a respight giuen to the tenent or defendant be-

fore

fore the court. Brooke titulo. Con-

Dicker of lether, is a quantitie confishing of tenne hides. The name may seeme to come from the Greeke (decas) which is also a Latine word signifying tenne in number.

Dignstie ecclesiasticall (dignitas ecclesiastica) is mentioned in the statute anno 26. H. 8. cap. 3. and is by the Canonists defined to be (administratio cum iuristictione & potestate aliqua coniuncta. Glos. in cap. 1. de consuet. in sexto.) whereof you may reade divers examples in Duarenus de sacris eccles. minist. & benefic. lib. 2. cap. 6.

Dioces (diocesis) is a Greeke word compounded of (Ma) and (Manous,) and signifieth with vs, the circuit of enery Bishops inrisdiction. For this realme hath two sorts of divisions, one into Shyres or Counties, in respect of temporall policie, another into Diocesses inrespect of iurisdiction ecclesiasticall.

Dieta rationabilis, is in Bratton vsed for a reasonable daies iourney. lib. 3. parte. 2. chap. 16. It hath in the civile law divers other significations, not needfull heere to be set downe. v. vocab; vtirusque imis.

Dimy baque. See Haque.

Disalt, signissieth as much as to disable. Litleton in his chapter of Discontinunce.

Disceite, See deceite and deceptione. See the new booke of Entry verbo Disceit.

Discent, (Discensus) in the french (Descente) fignifieth in the common law, an order or means whereby lands or tenements are deriued vnto any man from his auncestours: as to make his difcent from his Auncestours, Old nat. br. fol. 101 isto shew how. and by what degrees, the land in question cam to him from his auncestours: as first from his great grandfather to his grandfather, from his grandfather to his father, and foto him. Orin fuch other like fort: This discent is either lineall or collaterall. Lineall discent is conucied downeward in a right line from the Grandfather, to the father, and from the father to the fonne, and from the sonne to the Nephew. &c. Collaterall discent is springing out of the side of the whole blood: as Grandfathers brother, fathers brother, &c. See the new Tearmes of law.

Disclamer, (Disclamium) is a plee containing an expresse deniall or refusall: as if the tenent siew a replevin vpon a distresse taken by the lord, and the lord avow the taking of the distresse, saying that he houldeth of him as of his Lord, and that he distressed for rent not paid, or seruice not persourmed: then the

tenent

tenent denying himselfe to hould of fuch Lord is faid to disclaime: and the Lord prouing the tenent to hould of him, the tenant leefeth his land. Tearmes of law. Of this see Skene de verb: signif: verbo Disclamation. Also if a man deny himselfe to be of the blood or kindred of another in his plee, he is faid to disclaime his blood: Enzh: nat: br: fol, 197. G. See Brooke, titulo Disclai mer If a man arraigned of felonie do difclaime goods, being cleared he leefeth them. Stawnf. pl. cor. fol. 186. See the new booke of Entries. verbo, Disclamer.

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Discontinuance, (Descontinuatio) commeth of the french (Difcontinuer).i. cessare, intermittere) and fignifieth in the common law, nothing els but an interruption or breaking of:as discontinuance of possession, or discontinuance of proces. And the large discourse that Litleton hath about this (Discontinuance) is rather to show cases wherein it is. or wherein it is not, then to define the thing. The effect of difcontinuance of possession is this, that a man may not enter vpon his owne land or tenement alienated, whatfocuer his right be vnto it, of his owne selfe, or by his owne authority, but must bring his writ, and feeke to recoide uer possession by law. Examples you may have fore in his Terms

of law, verbo Discontinuance. And in Litleton codem capite, with whom agreeth another in thefe words: But discontinuance of possession is indeed an impediment to a man for entring into his owne land or tenements, caused by the fact of one, that alienated them contrary to right, and gaue Livery and seisin of them, whereby the true owner is left only to his action. See the new tearmes of law, and the In-Airures of the Common Law.ca: 43. & see S. Ed. Cokes reportes. l. 3. the case of Fines. fo. 85. b. The effect of discontinuance of plee is, that the instance is fallen, and may not be taken vp again, but by a new writ to begin the suite a fresh. For to be discontinued, and to be put without day, is all one; and nothing els, but finally to be difinissed the court of that instance. West. parte 2. Simbol: titulo. Fines. fect: 119. So Crompton in his divers Iurifdictions, fol: 131. vieth it in thefe words: If a Iustice seate be difcontinued by the not comming of the lustices, the king may renew the same by his writ, &c. In this fignification Fitzb: in his nat. br. vieth the word divers times: as discontinuance of a corody, f.193.A. To discontinew the right of his wife. fol. 191. L. G. 193. L. Discontinuance of an asfife, fol. 182. D. 187. B.

Difora-Z 2

Disgrading, (Degradatio) is the punishment of a Clerk, that being delinered to his Ordinary, cannot purge himselfe of the offience, whereof he was conuicted by the Iury : and is nothing but the deprivation of him from those orders of Clerk. Thip that he had, as Preistehood, Deaconship.&c. Stawnf. pl: cor: fol. 130. & 138. There is likewife difgrading of a knight. Stowes Annals. pag. 865. And it is not to be omitted, that by the Canon law, there be two forts of difgrading: one fummary by word onely, and another folemne by deuching the party degraded of those ornaments and rites, which be the enfignes of his order or degree.

Dismes (Decima) is made of the french (Decimes) and fignifieth tiche or the tenth part of all the fruites, either of the earth, or beastes, or our labour, dew vnto God, and so consequently to him that is of the Lords lot, and hath his share: viz. our pastour. It fignifieth also the tenthes of all spirituall liuings, yearly given to the Prince (called a perpetuall Disme. anno. 2. & 3. Ed. 6. ea. 25) which in auncient times, were paid to the Pope, vntill Pope Vrbane gaue them to Richard the second, to aide him against Charls the french king, and those other that vpheld Clement

the seuenth against him. Polider Vorgil. Angl. bist: lib. 20. Lastly it signifieth a tribute leuied of the Temporalty. Holinshed, in Henry. 2. fol. 111.

Disparidgment, Disparagatio, is by our common lawyers, vsed especially for matching an heire in mariage under his or her degree.or against decencie. See my Institutes titulo de nupriis. §.6.

Diffeisin (Disseisina) commeth of the french (Diffeisir) and fignifieth in the common lawe, an vnlawfull dispossessing of a man of his land, tenemet or other immoueable or incorporeall right, Institut. of the the com. lawe. ca.15. And how farre this extendeth, See Bracton, libro quarto, captertio. And therefore the Affifes bee called writs of diffeifin, that lie against disseilours in any cale. whereof some bee termed little writs of diffeisin.being vicontiel, that is, sie wable before the Shyrecue in the countie court, old. nat.br.fol. 109. because they are determined by the Shyreeuc without affile. Register Orginal.fo. 198.6. as for Nuissances of no great prejudice. Disseifin is of two forts; either simple disseifin, committed by day without force and armes. Bracton.li.4.ca. 4. Britton. ca. 42. 6 43.6 44. where you shall finde in what especially it is lawfull, in what not Britton. ca. 53. And Diffeisin by force force, for the which see Deferfour. See fresh Disseisin. See Redisseisin, and Postdisseisin. See Skene de verbo. significat. verbo Disseisina. Disseisin how many wates it is committed. See Fletali. 4. ca. 1. §. Fit autem, & c. & when it is lawfull. ca. 2.

Distresse (Districtio, Districtus) cometh of the French (Diftreffe, angustie) It signifieth most commonly in the common law, a compulsion in certaine reall actions, whereby to bring a man to appearance in courte, or to pay debt or dutie denied. The effect whereof most commonly is, to drive the party distreined to replevie the distresse, and so to take his action of trespasse against the distreiner, or els to compound neighbourly with him for the debt or dutie, for the which he distreineth. In what cases a distresse is lawfull, see thenewe termes of lawe. The Civilians call it (pignorum captionem) Brissonius de verbo. significa.lib. 14. This compulsion is by Britton, ea. 71. divided into a diffresse personall and distresse reall: distresse personall, is made by surprising a mans moueable goods, and deteining them for the fecuritie of his appearance to the suite, and to make him plantiffe. A distresse reall, is made vpon immoveable goods, as the Grand Cape & Petit Cape. And thus it is interpreted

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by Hotoman de verb feudal: verbo Districtus. This differeth from an attachement in this point (among others) that a distresse cannot bectaken by any common person, without the compasse of his owne see. Fitch, nat. br. fol. 904 except it bee presently aster the catell or other thing is driven or borne out of the ground by him that perceiveth it to bee in danger to be distreined. New termes of the lawe. ver-

bo distresse.

Districtus, is sometime vsed for the circuit or territorie within the which a man may be thus compelled to apperance. Ca. ne Romani.de electione in Clem:and Cassan. de consuetud: Burgand. pa. 90 Britton. ca. 120. and fo likewise is Districtio in the Register originall.fol. 6.b. And fo it fee meth to beevsed in pupilla ocula: parte. 5.c. 22. Charta de foresta Scc also Mynsing in the chapter licet eausam. 9.extra de probationibus. nu.5. & Zasus in his 16. councell. nu.47. Distrelle, in the former fignification, is divided first into finite and infinite. Finite is that which is limited by lawe, how often it shall be made to bring the partic to triall of the action, as once, twice. Old nat. br. fo. 43. Distresse infinite is without limitation untill the partie come: as against a lurie that resuscth to appeare super certificatione Assifa, the the processe is a (venire facias) (habeas corpora) and diffreffe infifinite. Old.nat. br. fol. 113. Then it is divided into a graund di-Areffe.anno. 52. H. 3.ca. 7. which Fitzberbert calleth in latine magnam districtionem nat. br. fol. 126. A and an ordinarie distresse. A graund distresse is that . which is made of all the goods and catels, that the partie hath within the Countie. Briton, ca. 26.fol. 52. but fee whether it be Comerime not all one with a di-Streffe infinite. Idem. fol. 80. with whom also the Statute of Marlbridge seemeth to agree anno 52. H.2.ca.7.6 ca.9.6 ca. 12. See old nat. breu fol. 71.b. See grand distresse, what thigs bee distreinable, and for what causes. See the newe Termes of lane. verbo Distresse. Of this also see more in Attachment.

Distringus, is a writ directed to the Shyreeue, or any other ofofficer, commanding him to distrene one for a debt to the
king, &c. or for his appearance at
a day. See great diversitie of this
writin the table of the Register
iudicial, verbo Distringues.

Divise See Devise.

Dividends in the Exchequer, seemeth to be one part of an Indenture. anno 10.Ed. 1.ca. 11. 6 anno 28.eiusdem. Stat. 3.ca. 2.

Dyvorce. See. Devorce.

Docket, is a brife in writing.

anno. 2. & 3. Ph. & Mar. ca. 6. West writeth it (Dogget) by whome it seemeth to be some small peece of paper or parchement, containing the effect of a larger writing. Symbol.parte. 2.ti. tillo Fines. self. 106.

Doctor and Student, is a booke contening certaine dialogues, betweene a D. of Divinitie, and a Student at the common Law, wherein are conteined questions and cases, as well of the equite and conscience ysed in the common Lawe, as also a comparison of the Civile, Canon, and common lawe together, very worthy the reading. The author is said by D. Cosin in his Apologie, to bee a gentleman, called Saint German, The booke was written in the daies of H.8.

To do lame (facere legem) is as much as to make lawe. 23. H.

6. ca. 14. See. Make.

Dogge drawe, is a manifest deprehension of an offender against venison in the forest. There bee source of these noted by M. Manhood. parte. 2. of his forest lawes.ca. 18.nu.9.viz. Stablestand Dogge drawe, Back beare, and Bloodie hand. Dogge drawe, is when one is found drawing after a deere, by the sent of a hound, that he leadeth in his hand.

Dogger, a kinde of shippe, an. 31. Ed. 3. Stat. 3. ca.prs.

Doggerfish, ibid.c. 21. feemeth to

bee

bee fish brought in those ships to Blackeney hauen, &c. Dogger men. anno 2. H. 8. ca. 4.

Dogget, See Docket.

Domo reparanda, is a writ that lyeth for one against his neighbour, by the fall of whose house he feareth hurt toward his owne house. Register originall. fol. 153. for this point. The civilians have the action de damno infecto.

Dole fishe, seemeth to be that fish, which the fisher men, yerely imployed in the north sease, doe of custome receive for their allowance, See the statute.a. 35.

H. 8. ca. 7.

Donatyue, is a benefice meerely giuen and collated by the Patron to aman, without either presentation to the Ordinary, or Institution by the Ordinarie, or Induction by his commandement. Fitzb.nat.br.fol. 35.E. See the statute, anno 8.R.2.cap. 4. Of this Petr. Gregor. de beneficiis cap. 11.nu.10. hath these words: Si tamen Capellania fundata per Laicos non fuerint à Diœcesano approbate, & vt (loquuntur) firitualizate, non censentur beneficia, nec ab Episcopo conferripossunt, sed sunt sub pia dispositione fundatoris. Ioh. Faber ad 6. Nulius. De rerum divis: Ideo funand datores & baredes corum, passunt and tales Capellinias donare line Episcopo, cui voluerint, tanquam profona beneficia. Guido Papaus descis. 187. See also Gregorius. lib. 15.ca. 29.

(wi syntagmatis.nu. 11. I finde in the preface of M. Gwins readings, that as the king might of auncient times found a free Chapell, and exempt it from the iurifdiction of the Diocesan: so hee might also by his leters patents licence a common person, to found fuch a chapell, and to ordeine, that it shalbe donative & not presentable, and that the Chaplaine shall be depriueable by the founder and his heires, and not by the Bishop. And this is likest to bee the original of these Donatines in England. Fitzh. faith, that there be certaine Chauntries, which a man may give by his leters patents.nat.br. fol. 33. C. See him also, fol. 42. B. All Bishopricks were donariue by theking, Coke. li. 3. fo. 75. b.

Doomes day, (Rotulus Wintoma) (domus Dei. Coke in Prafutione ad librum (uum) is a booke that was made in king Ed. the Confessors dayes, as the author of the old. nat.br.faith,f.15.containing in it not onely all the lands through England, but also all the names of those, in whose hands they were at that time when the book was made. M. Lamberd in his explication of Saxon wordes (verbo, Ius Dacoru, &c.) proueth out of Gervasius Tilburiensis, that this booke was made in William the Conquerors time: with whome agreeth M. Camden in

his

his Britan. pag. 94. proning it out of Inoulphus, that flourished the fame time. And for the beter commendation of the booke, it is not amisse to set downe the words of Ingulphus, touching the contents thereof. Totam terram descripsit. Nec erat byda in tota Anglia, guin valorem eius er po sessorem scivit, nec lacus nec locus aliquis, quin in Regis rotulo extitit descriptus, ac eius redities & proventus, ipla possessio, & eius possessor regie notitie manifestatus, iuxta taxatorum fidem qui ele. Eti de qualibet patria territorium proprium describebant. Iste rotulus vocatus est Rotulus Wintonia, & ab Anglis pro sua generalitate, quod omnia tenementa totius terra continuit (Dome (day) cognominatur. So it is called in the Statute anno pri. Ric. 2. cap. 6. And in Ockhams lucubrations de fisci Regii ratione, which feemeth to be taken out of the Booke called (Liber rubeus) in the Exchequer. It is termed (liber Iudicatorius) and the reason why quit in eo totius Regni descriptio diligens continetur: & tam de tempore Regis Edwardi, quam de tempore Regis Willielmi, Sub quo factus est, singulorum fundorum valentia exprimitur.

Dorture (Dormitorium) anno. 25. H.8.ca. 11. is the common roome, place or chamber, where all the friers of one couent slept, and lay all night.

Dote affignanda, is a writ that lieth for a widowe, where it is found by office, that the kings tenent was feifed of tenements in fee, or fee taile, at the day of his death, &c. and that hee holdeth of the king in cheife. &c. For in this case the widowe commeth into the Chauncerie. and there maketh oath, that shee will not mary without the kings leaue. Anno 15. Ed. 2. ca. 4. and herevpon shee shall have this writte to the Escheatour, for which fee the Register originall fol. 297. and Fitzh. nat. br.f. 263. And this fort of widowes is called the kings widowe. See Wi-

Dote unde nihil habet, is a writ of dower, that lyeth for the widow against the tenent, which hath bought land of her husband in his life time, whereof he was seised solely in see simple, or see taile, in such fort as the issue of them both might haue inhereted it. Fitzh. nat. br. fol. 147. Register fol. 170.

Dotis admensuratione, See Admesurement. See the Register. fol. 171.

Dokins, a kinde of coine. plicor: fol: 37. It seemeth to come of the Dutch word Duythen, that is, the eight part of a Stufer, or French Shilling, which in lat ne is called Solidiu Gallicius.

Doubles. anno 14. H. 6. cap. 6. fignific as much as leters patents, being as it feemeth a French word made of the Latine (di-

ploma.)

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Double plee. (duplex placicum) is that, wherein the defendant alledgeth for himselfe two seucrall maters, in barre of the action, whereof either is sufficient to effect his defire in debarring the plaintiffe. And this is not to be admitted in the common lawe: wherefore it is well to be obserued, when a plee is double, and when it is not. For if a man alledge seuerall maters, the one nothing depending of the other, the plee is accounted double. If they be mutually depending one of the other, then is it accompted but fingle. Kitchin fo. 223. See Broke hoc titulo. But why this doublenes (for fo Kuchin calleth it, fol. 234.) should bee in to fund debarred, I see no reason (vnder both correction all things being spoken.) For a man may have two 170 good defences: and happily in the issue he shall contrarily to his hope faile in prouing the one, and yet be able to carie the of coll cause by the other. And thereen of fore not onely the Civilians, but ord D. Bratton also saith: Pluribus excepcofal tionibus uti nemo probibetur. lib. 5. , tract. 5. cap. 5. num.4. whom also iolida reade, libro, 4. cap. 17. And Sit Thomas Smiths reason of this vinom

scantly satisfieth me, alledging this to be the course of our proceeding, because the triall is by twelue rude men, whose heades are not to be troubled with ouer many things at once.lib.2.de Re-

pub. Anglor. cap. 12.

Double quarell (duplex querela) is a complaint made by any Clerke or other vnto the Archbishop of the Province, against an inferiour ordinarie for delaying of iustice in some cause ecclesiasticall: as to giue sentence or to institute a clerke presented, or fuch like. The effect whereof, is that the faid Archbishop taking knowledge of fuch delay, directeth his leters under his authenticall scale, to all and singular clerkes of his Prouince, therby commaunding and authorizing them and enery of them, to admonish the said Ordinarie. within a certaine number of dayes, namely, 9. dayes, to doe the iustice required, or otherwise to cite him to appeare before him or his officiall, at a day in the faid leters prefixed, and there to alledge the cause of his delay. And lastly, to intimate to the said Ordinarie, that if he neither performe the thing enjoyned, nor appeare at the day affigned he himselfe will, without farder delay, proceed to perform the inflice required. And this seemeth to be tearmed a double

Aa 1 quarell,

because it is most commonly made against both the Judge, and him at whose petition instice is

delayed.

Doner (dos) commeth of the French (donaire) and signifieth in our common lawe, two things: first, that which the wife bringeth to her husotherwife band in mariage, called maritagin, mariage good: next, and more commonly, that which the hath of her husband, after the mariage determined, if The out-live him. Glanvile.lib.7. cap. I. Bracton. lib. 2. cap. 38. Britton. cap. 101 in princ. And in Scotland, (dos) fignifieth iust as much. Skene de verb. fignif. verbo. Dos. The former is in French called (dot) the other donayre, and by them latined doarium. I likewife once thought it not vnreasonable, to call the former a Dowrie, & the other a Domer: but I find them confounded. For exaple: Smith de rep. Anglo.p. 105. calleth the later a dowrse, and domer is sometime vsed for the former: as in Britton vbi supra. vet were it not inconvenient to diffinguish them being so divers. The Civilians call the former (dotem) and the later (donationem propter nuptias.) Of the former the common law bookes speake very litle. This onely is to be noted, that whereas by the civile lawe, instruments are made before mariage, which containe the quantitie of the wives dowrie, or substance brought to her husband, that he having the vie of it during mariage, may, after certaine deductions, reftore it againe to his wines heires or friends, after the mariage diffelued: the common lawe of Enoland, what foeuer chatels moueable or immoueable, or readie money she bringeth, doth make them foorthwith her husbands owne, to be disposed of, as he will, leauing her at his courtefie, to bestow any thing or nothing of her at his death. The reason whereof is faid to be, the holding of the wife in obedience to her husband. Onely if she be an inheretrice, her husband holdeth the land but during her life, excepthe haue iffue by her: but then he holdeth it by the courtefie of England during his owne life. See Courtese. And againe, if he have any land in fee, wherof he was possessed during the mariage, the is to have a third therof during her life, though she bring nothing to him, except The doe by fine release her right, during the mariage. So that here is no great mater to bec spoken of, but touching dower in the later fignification. You must know therfore, that ypon speech of mariage betweene two, the parents of both fides are commonly

monly more carefull in prouiding each for his childe, then the parties themselves : and that by their meanes there bee divers bargaines made, fometime for the conuciance of lands &c. to them and their iffue: and this is faid to be given in franke mariage: sometime to her during her life, and that before, or at the mariage : if before mariage, then it is called a Joynture. For a Joynture is a couenant, whereby the hufband, or some for him is tved (ratione uncture) in consideration of the mariage, that the wife furviuing him, shall have during her life, this or that tenement or lands, or thus much rent yearely paylible out of fuchland, &c. with clause of diffresserand this may be more or lesse, as they doe accord. Britton, cap. 101. whome readallo ca. 102. 103. 104. for conventio vincit legem. Bracton.lib. 5. tract. 4.6ap. 9. The diversitie of these lovatures, you may fee in West. parte prima symbol.lib.2. sect. 128. 129.130.131.132.133. But if none of these former bargaines passe before mariage, then must the wife flick to her Dower: and that is sometime given at the Church doore or the Chappell doore, if the mariage bee by licence, but not the chamber doore; and may bee what the

husband will: fo it exceede not a third part of his lands. Glanvile libro. 6. cap. pri. Or the halfe, as fome fay. Fitzh.nat. br. fol. 150. N. P. And this Dower is either certainly set downe and named, or not named but onely in generalitie, as the law requireth: if it be not named, then is it by lawe, the third part, and called dos lightima) Bracton.lib.4.tracta.6.cup.6. nu.6. & 10. Magna. Charta. c.7.01 the halfe by the custome of some countries, as in Gavelkinde. Fitzh. nat. br. fol. 150. O. And though it bee named, it seemeth that it cannot bee aboue halfe the lands of the husband. Fuzh. nat. br.fol. 150. P. And the woman that will chalenge this dower, must make 3. things good, viz. that shee was maried to her husband, that he was in his life time feifed of the land, whereof shee demaundeth dower, and that he is dead. Cokes reportes li.2. Bingbams case. fo. 93. a. Of these things see Glanvile, li.6. cap. 1. 2. 6 3. Bracton lib. 2.ca. 38. 39. & lib. 4. tracta.6.cap.1. & 6. and Britton cap. 101.102.103.104. and Fitzherb. natur. brev.fol. 147. 148. 149.6 150. And this custumary dower, seemeth to be observed in other nations, as well as in ours. Hotoman verbo Dotalitaum in verbis feudal: Cassan, de consuetud. Burg.pag. 580.676.677. & de conventionali.p. 720. And to thefe A a 2 ioyne

ioyne the graund Custumarie of Normandie, cap. 102. where you shall perceive, that in a maner all our lawe in this point is taken from the Normans: See Endowment. Of dower reade Fleta likewise, who writeth largely thereof, and hath many things worth the learning. li. 5. ca. 22 & segg.

Dozenne. See Decennier.

Drags.ano.6.H. 6.ca.5. seeme to be wood or timber so ioyned together, as swimming or stoting vpon the water, they may be are a burden or load of other wares downe the river.

Drawe latches, anno. s. Ed. 3. ca.14.6 anno. 7. Rich. 2. ca.5. Master Lamberd, in his Eirenarch lib: 2. ca. 6. calleth them miching theeues, as Wasters and Roberdsemen mighty theeues, saying that the words be growne out of yse.

Dreit Dreit, significth a double right, that is im possessionis, & im Domini. Bracton. lib: 4. cap. 27.6 lib. 4. tracta. 4. cap: 4. & lib. 5.

tracta. z. cap. s.

Drye exchaunge. an. 3. H. 7. ca. 5. (Cambium siccum) seemeth to be a clenly terme invented for the disguising of soule vsury, in the which some thing is pretended to passe of both sides, wheras in truth, nothing passeth but on the one side: in which respect it may well be called drie. Of this Ludonicus Lopestrassat: de

contract: & negotiatio. lib: 2.ca. pri. s. Deinde postquam. writeth thus: Cambium est reale vel siccum. Cambium reale dicitur, quod conaftentiam veri Cambis realem habet, & Cambium per trans, & Cambium minutum. Cambium aute siccum est Cambium non habensexistentiam Cambii, sed apparentiam ad instar arboris exsiccate, que bumore vitali iam carens apparentiam arboris habet, non existentiam. Summa Sylv: Verbo V sura. quast: 6. Est ergo Cambium siccum inxta banc acceptionem (in qua etiam accipitur in Extrau. Pii quinti) idem quod Cambium fictu. Non aute habet propriam naturam Cambii, sed mutui & vsura. At vero secundum Laurentium de Nauarra in Comento de vsuris & Cambiis citatam, Cambium siccum in alia acceptione minus communi sumptum est Cambium, in quo Campfor prius dat quam accipiat. Dicitur autemifto modo siccum, quia sine pravia acceptione dat Campfor. Quod tamen, vi sie acceptum (autore Siluestro) lieste celebratur aliquando. Quiatunc verum & reale Cambium est diffe. rens genere ab co Cambio, in quo Campfor prius recipit. Quia in ifio Campfor semper primo dat che deinde accipit. Well on on John when

Drift of the Forest, seemeth to be nothing but an exact view or examination, what catellare in the forest that it may be known, whether it be ouercharged or not, and whose the beastes be. This drift, when, how often in the yeare, by whome, and in what maner it is to be made, see Manwoodparte. 2. of his forest lawes. cap: 15.

Droit d' Advonzen. See Resto

de aduocatione Ecclesia.

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Droit close. See. Recto clausum. Droit de dower. See Recto dotis. Droit sur Disclaimer. See Reto sur disclaimer.

Droit patent. See Restopatens.

Duces teeum, is a writ commaunding one to appeare at a day in the chauncery, and to bring with him some peece of euidence, or other thing, that the court would view. See the new booke of Entries, verb. Duces tecum.

Duke (Dux) commethe of the french (Duc) It signification auncient times among the Romaines Ductorem exercitus) fuch as led their armies, who if by their prowes they obteined any famous victory, they were by their fouldiers faluted (Imperatoni res) as Hotoman verbo Dux, de verbis fendel: proueth out of Lyvy, Tully, and others. Sithence that they were called (Duces) to whome the king or people committed the custodie or regiment an of any province. Idem. eod. And this seemeth to proceede from the Lombards or Germans, Sigon de regno Ital.l.4. In some natios at

this day, the Soveraignes of the country, are called by this name, as Duke of Ruffia, Duke of Swethen. Heere in England, Duke is the next in feculer dignitie to the Prince of Wales. And as (M. Camden faith) heretofore in the Saxons times, they were called Dukes, without any addition, being but meere officers, and leaders of armies. After the Conquerour came in, there were none of this title vntil Edward the thirds daies, who, made Edmardhis fon Duke of Commayle. After that there were more made, and in such fort, that their titles descended by inheritance to their posteritie. They were created with folomnitie (per cin-Eturam gladii, cappag; & circuli aurei in capite impositionem, vide Camd. Britan. pa. 166. Zasum de feudis parie. 1.nu.7. & Cassan. de consuetud. Burg pag. 6. 6 10. and Ferns glory of generofity pag. 139.

Dutchy court, is a court, wherein all maters appertaining to the
Dutchy of Lancafter, are descided
the decree of the Chauncelour
of that Court. And the originall
of it was in Henry the fourthes
daies, who obtaining the crown,
by deposing Richard the second,
and having the Dutchy of Lancaster by discent in the right of his
mother, he was seised thereof as
king, and not as Duke. So that
all the liberties, fraunchises, and

Iurisdictions of the said Dutchy passed from the king by his graund seale, and not by liverie, or attournment: as the postfessions of Everwicke, and of the Earldome of March, and fuch others did which had descended to the king, by other Auncesters then kings. But at the laft, Henry the 4. by authoritie of Parlament passed a charter, whereby the possessions, liberties, &c. of the faid Dutchy were seucred from the Crowne : Yet Henry the 7. reduced it to his former nature, as it was in Henry the fifts daies. Crompton Iurifdict. fol. 136. The officers belonging to this Court are the Chauncellour, the Atturney, Receiner general, Clerke of the court, the Messenoer. Beside these, there be certain Affithantes of this Court: as one Atturney in the Exchequer: one Acturney of the Dutchy in the Chauncery, foure learned men in the lawe, reteined of councell with the King in the faid court. Of this Court M. Gmin. in the preface to his readings thus speaketh: The court of the Duchy (or Countie Palatine of Lancalter) grew out of the graunt of king Edward the third, who first gaue the Dutchy to his sonne Iohn of Gawnte, and codowed it with fuch royall right, as the Countie Palatines of Cheffer had and for as much es it was

afterward extinct in the person of king Henry the fourth, by reason of the vnion of it with the Crowne : the fame king fuspecting himselfe to bee more rightfully Duke of Lancaster, then king of England, determined to fauchis right in the Dutchy, whatsoeuer should befal of the King. dome:and therefore hee separa. ted the Dutchy from the Crowne, and setled it so in the naturall persons of himselfe and his heires, as if he had bin no king or Politique bodie at all: In which plight it continued, during the reigne of K. Herry the 5. and Henry the 6. that were defcended of him. But when King Edw.the 4. had (by recourry of the Crowne) recontinued the right of the house of Yorke, hee feared not to appropriate that Dutchy to the Crowne againe: and yet so, that hee suffered the Court and Officers to remaine as he founde them. And in this maner, it came together with the Crowne, to King Henry the 7. who liking well of that policy of King H.the 4. (by whose right also hee obteined the Kingdome) made like separation of the Dutchy, as hee had done, and so left it to his posterity which doe yet

inioy it.

Dumfuit infra atatem, is a writ which lyeth for him, that before hee came to his full age, made

afc.

a feofment of his land in fee, or for terme of life, or in taile, to recover them againe from him, to whome he conveied them. Fuzh. nat.br.fol. 192.

Dum non fuit compos mentis, is a writthat lieth for him, that being not of found memory, did alien any lands or terements in fee simple, fee tayle, for terme of life, or of yeeres, against the alience. Fitzb.nat. br. fol. 202.

Duplicat, is vsed by Crompton, for a lecond leters patent grauted by the Lord Chauncelour, in a case, wherein he had formerly done the fame; and was therefore thought void. Cromptons In-

rifd.fol. 215.

Dures (Duritia) commeth of the French (dur.i.durus, vel durete. i.duritus) and is in our common lawe, a plee vsed in way of exception, by him that being caft in prisonat a mans fuire, or otherwife by beating or threats hard-My vsed, sealeth any bond vnto im during his restraint. For the Hom awe holdeth this not good, but other supposeth it to be con-Trained . Brooke in his Abridgethe Minent joyneth Dures and Manasse on othogether. i. duration & minas, ne, and ardnes and threatning. See the hid ewe booke of Entries, verbo Jures. and the new Termes of law. etens, St

n, that Alderman (Aldermannus) among the Saxons, was as much as Earle among the Danes. Camden. Britan.pag. 107. If yee goe to the true etimologie of the word, mee thinketh, it shoud found more generally, fo much as approfus with the Grecians, or Senator with the Romanese who were rather Councellers at large, then bestowed vpon any particular office, as Comites were. See Countie. And that fignification we retaine at this day almost in all our Cities, and Borowes, calling those Aldermen, that are Affociates to the Chiefe Officer in the common councell of the Towne. anno 24. H. 8. ca. 12.01 sometime the cheife officer himselfe, as in Stan nford.

Earle (Comes) in M. Camdens opinion.pag. 107.is a word made by the Danes of (Ealderman) a word of the Saxons. M. Lamberd feemeth notwithstanding to acknowledge, that Earle is originally a Saxon word. Explica. of Sax. words.verbo Paganus: and interpreteth it (Satrapam) which word the Romaines borowing of the Persians, applied to those that were prafecti provinciarum. M. Verslegan in his restitution of decased intelligence, deriveth it from two Netherland words (ear. i.honor) and (ethel inobilis) wherein I leave the reader to his owne judgement. This title in auncient time, was given to those, that were affociates to the king in his

councels and Marshall actions (as Comes was to those that for lowed the Magistrates in Roome, and executed their offices for them as their deputies, and died alwaies with the man. Zafius hath of this word thus much. Comitu originem in Doctoribus non invenimus: sed noveris eam dignitatem vetustissimim ese. Nam Cor. Tacitus in libello de Germania scribit apud priscos vsu fuisse receptum, vt cuilibet principi scu Duci exercitus duodecim comites afficnarentur : ideo dictos, quia comitarentureos, & à Ducum latere non decederent. Comitu itaq; origine Germanis moribus ortum este, di-Etus receptissimus autor testis est. Quapropter quod in duodecimo libro Codicis aliqui tituli de Comitibus largitionum &c. inscribuntur, usurpationem Imperatoris ex Germanorum ritibus sumptam credo. But the Conquerour (as M. Camd . saith) gaue this dignitie in fee to his nobles, annexing it to this or that countie or province, and allotted them, for their maintenance, a certaine proportion of monie rifing from the Princes profits, for thepleadings. and forfeitures of the province. For example, he bringerhan aunene Record in these words. Henricus 2. Rex Anglie his verbis Comitem creanit: Scintis nos fecisse Hugonet Biget Comité de Nortfolk. ses de tertio denamo de Normico es

Northfolke, sicut aliquis comes An. glie liberius comitatum suum tenet Which words (faith the fame author) an ould booke of Battell Abbie thus expoundeth: Confuetudinaliter per totam Angliam mos antiquitus inoleverat, Comites provinciarum tertium denarium sibi obtinere inde Comites dicti. And another booke without name more fully. Comitatus a Comite dicitur, aut vice versa. Comes autem est, quia tertiam portionem eorum que de placitis proveniunt, in quolibet Comitatu percipit. Sed non omnes Comites ista percipiunt: sed bii quibus Rex hereditario aut personaliter concessit. You may reade M. Fern in Lacyle nobility, something to this effect. pa. 12. But he faith, that one Duke or Earle had diuers Shires under his gouernment, as a viceroy, and had lieuetenants under him in euery particular Shire, called a Shyreeue. That one Earle was dignified by the appellation or more then one Shyreeue, it appeareth by diuers of our auncient Statutes, as namely by the senteccof excommunication pronounced by the Bishops against the infringers of the great Charter,& charter of the forest. anno. 38. H.3. Roger Bigot is named Earle both of Northfolke and South. folke, and anno 1. Ed. 3. Thomas Earle of Lancaster and Leycester. Humfrey Bobuss. Earle of Here-

ford and Estex. Dyer. fo. 285. nu. 39. At these daies, as long fince, the kings of England make Earles by their charters, of this or that Countic, giving them no authoritie ouer the Countie, nor any part of the profit rifing of it, but onely some annuall stipend out of the Exchequer, rather for honours fake, then any great commoditie. And these bee in other nations accompted Earles improperly. Quia illi ducuntur vere Comites, quibus datur Comitatus in feudum: illi Comites abusive qui non habent administrationem. Vincentius de Franchis. descis. 115.nu.7. The maner of creating Earles is by girding them with a fword. Camden. pag. 107. but see the solemnitie thereof described more at large in Stomes annals.pa. 1121 The occasion why these Earles in later time have had no fwaye ouer the Countie, whereof they beare their name, is not obscurely signified in Sir Thomas Smith lib. 2. cap. 14. where he faith, that the Shyrceue is called Vicecomes, as (Vicarius Comitis) following all maters of inflice, as the Earle should do: and that because the Earle is most commonly attendant vpon the king, in his warres or otherwise. So that it seemeth that Earles by reason of their high employments, being not able to follow also the businesse of the countie, were deliuered

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of all that burthen, and onely enioyed the honour, as now they doe. And the Shyreeue, though he be still called Vice-comes, yet all he doth, is immediatly under the king, and not under the Earle. See Countie, & see Hotoman. de verb. feudal. verbo Comes: and Cassan. de consuetud. Burg. p. 12.

Easement, (esamentum) is a service that one neighbour hath of another by charter or prescription, without profite, as a way through his ground, a sinke, or such like. Kitchin. fal. 105. which in the civill lawe is called Servicus pradii.

Eele fares, alias, Eele Vare. an. 25. H. S. cap. 7. be the frie or

broad of Eeles.

Egyptians (Egyptiani) are in our statutes and lawes of England, a counterfeit kinde of roagues, that being English or Welch people, accompany thefelues together, disguising themfelues in thraunge roabes, blacking their faces and bodies, and framing to themselves an vnknownelanguage, wander vp and downe, and vnder pretence of telling of Fortunes, curing difeases, and such like, abuse the ignorant common people, by stealing all that is not too hote or too heavie for their cariaage. anno 1. 6 2. Phi. & M. cap. 4. anno 5. Eliz. cap. 20. Thefe are very like to those, whom the Ita-

Bb I lians

lians call Cingari: of whom Franciscus Leo in suo the sauro fori ecclesiastici parte prim. eap. 13. thus writeth: Cingari, qui corrupto vocabulo, quandoque etiam Saraceni nominantur, & permissione principu ac aliorum dominorum, per Italiam vagantur, nec vnquam viderunt partes insidelium, minus legem Mahometi noverunt: sed sunt sere omnes Itali, & male habituati, ex rebus suntivis vivunt, ac fraudulentis earum permutationibus & ludis, in quibus vt plurimum fraudes committunt, & sunt baptizati.

Eiestione custodia, Eiestiment de gard, is a writ which lyeth properly against him, that casteth out the Gardian from any land, during the minority of the heire. Register origin. fol. 162. Fitz. nat. br. fol. 139. Tearmes of the law. verbo. Gard. There be two other writs not vnlike this: the one is tearmed Droit de gard, or right of guard, the other Raussimment de Gard. Which see in their places.

Eieltione sirme, is a writ, which lyeth for the Leaslee for terme of yeares, that is cast out before the expiration of his tearme, either by the leassour, or a straunger. Register fol. 227. Fitz nat. br. fo. 220. See Quare eiecit infra terminum. See the new booke of Entries. verbo Eieltione sirme.

Einecia, is borowed of the French (Aifne, i. primogenisus) and

fignifieth in our common lawe, Eldership. Statute of Ireland. anno 14. Hen. 3. Of this see M. Skene de verb. signif. verbo. Eneya.

Eyre, alias, Eyer, (Iter. Bracton lib. 3. cap. II. in Rubrica) commeth of the old French word (Erre. i. iter) as (a grand erre. i. magnis itineribus.) It signifieth in Britton cap. 2. the court of Inits. ces itinerants: and Iustices in Eyre. are those onely, which Bracton in many places calleth (Inficiarios itinerantes) of the Eyre, reade Britton vbi supra, who expresseth the whole course of it. And Bra-Eton. lib. 3. tractat. 2. cap. 1. 6 2. The Eyre also of the Forest is nothing, but the Iustice seate otherwife called: which is or fhould by auncient custome, be held euery three yeare by the Juffices of the forest, journeying vp and downe to that purpose. Cromptons Iurifd. fol. 1 36. Mann ood parte prima of his Forest lawes. pag. 121. See Iustice in Egre. Reade Skene de verborum figmfica. verbo. Iter: whereby, as by many other places, you may fee great affinitie betweene thefe 2. Kingdomes in the administration of luftice and government? How a site

Election de Clerke Electione clerici) is a writ, that lyeth for the choyce of a clerke, affigned to take and make bonds called flatone Merchant: and is graunted out of the Chauncerie vpon sug-

gestion

gestion made, that the Clerke formerly assigned, is gone to dwell in another place, or hath hinderance to let him from sollowing that businesse, or hath not land sufficient to answer his transgression, if he should deale amisse, &c. Fuzh. nat. br. fol. 164.

Elegit, is a writ Judiciall, and lyeth for him, that hath recouered debt or dammages in the kings court, against one not able in his goods to fatisfie: and directed to the Shyreene, commaunding him that he make delinery of halfe the parties lands or tenements, and all his goods, oxen and beafts for the plough excepted. Old nat. br. fol. 152. Register original fol. 299. 6 301. and the Table of the Register Iudiciall, which expresseth divers vses of this writ. The author of the new terms of law faith, that this writ should be siewed within the yeare, whom read at large for the vie of the same.

Elk, a kinde of ewe to make bowes of. anno 33. H 8. cap. 9.

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Empanel (Impanellare, Ponere in assistance Invatis) commeth of the french (Panne. 1. pellis) or of (Panneau) which signifiest some time as much as a pane with vs, as a pane of glasse, or of a windowe. It signifiest the wrighting or entring the names of a sury into a parchment schedule or

Rolle or paper, by the Shyreeue, which he hath sommoned to appeare for the perfourmance of such publique service, as Iuries are imployed in. See Panell.

Emparlance, commeth of the french (Parler) and fignifieth in our common lawe, a defire or petition in court of a day to pause, what is best to doe. The ciuilians call it (petitionem induciaru) Kitchin fol. 200. interpreteth it in these words: If he imparle or pray continuance. For praying continuance is spoken interpretatine in that place, as I take it. The fame author maketh mention of Emparlance generall. fol. 201. and Emparlance speciall fol. 200. Emparlance generall feemeth to be that which is made onely in one word, and in generall terms. Emparlance speciall, where the party requireth a day to deliberate, adding also these words: saluis omnibus aduantagiis tam ad iurisdictionem Curia quam ad breue & narrationem, or fuch like: Britton vseth it for the conference of a Jury vpon the cause committed vnto them. ca.53. See Imparlance.

Emprovement, Sce Improvement.

Encheson. A. 50. Ed. 3. ca. 3. is a french word, signifiing as much as occasion, cause, or reason wherefore any thing is done, See Skene de verbo. significa: verbo Encheson.

Bb :

Encrochement or Accrochemet. commeth of the french (Accrocher. 1. apprehendere, inuncare, barpagare) and that commeth of (Crochure. I. aduncitus) or (crochu. I. aduncus) Encrochement, in our common law, fignifieth an vn. lawfull gathering in vpon another man. For Example, if two mens grounds lying togither, the one presseth too farre voon the other: or if a tenent owe two shillings rent service to the Lord, & the Lord taketh three: So Hugh and Hugh Spencer encroched vnto them royall power and authoritie, anno prim. Ed 3. in process.

Endstement (Indictamentum) commeth of the French (Enditer. i. deferre nomen alicuius, indicare) or from the Greeke erdenvuui. because M. Lamberd will haue it so. Eirenar. lib. 4. cap. 5. pag. 468. It signifieth in our common lawe, as much as (Acensatio) in the civile lawe, though it have not in all points the like effect. West parte 2. symb. titulo, Inditements) defineth it thus: An Inditement is a Bill or declaration made in forme of lawe, (for the benefite of the common wealth) of an accusation for some offence, either criminall or penall, exhibited vnto Iurours, and by their verdict found and presented to be true, before an Officer hauing power

to punish the same offence. It is an accusation, because the Jury that inquireth of the offence. doth not receive it vntill the party that offereth the Bill, appeare fo farre in it, as to subscribe his name, and offer his oth for the truth thereof. It differeth from an Accusation in this, that the preferrer of the Bill is no way tyed to the proofe thereof vpon any penalty, if it be not proued, except there appeare conspiracy. Wherefore, though moued by M. Wests authority, I call it an Accufation: yet I take it to be rather (Denuntiatio) because it is of office done by the great enquest, rather then of a free intent to accuse. Of this you may reade. S. Tho. Smith de Repub. Anglor. lib. 2. cap. 19. and Stampf. pl. cor. lib. 2. cap. 23. 24. 25. 26. 6c. V/g 34. and M. Lamberds Eirenarcha. li. 4. ca. 5. whence you may receive good fatisfaction in this mater.

Endowment (Dotatio) commeth of the french (Doilare) and fignifieth the bestowing or affuring of a Dower. See Dower. But it is sometime vsed metaphorically, for the setting soth or seuering of a sufficient portion, for a vickar toward his perpetual maintenance, when the benefice is appropriated. See Appropriation. And the statute A. 15. R. 2. cap. 6.

Endow_

Endowment de la plus Belle part. is where a man dying seised of fome lands houlding in knights service, and other some in socage, the widow is sped of her dower, rather in the lands houlding in focage, then knights fernice. Of this reade Litleton more

at large. l. I. ca. 5.

Enfranchisement, cometh of the french (Franchise. I. libertas) and is in a maner a french word of it selfe: It signifiech in our common law, the incorporating of a man into any focietie, or body politicke. For example, he that by charteris made Denizen of England, is faid to be enfranchifed; and so is he that is made a citizen of London, or other city, or Burges of any towne corporate, because he is made partaker of those liberties that appertaine to the corporation, whereinto he is enfranchised So a villaine is enfranchifed, when he is made free by his Lord, and made capable of the benefites belonging to freemen.

Englecerie (engleceria) is an old abstract word, fignifying nothing else but to be an English man. For example, if a man bee privily flaine or murthered, he was in old time accompted (Francigena) which word comprehendeth euery alien, vntil Enthe glecerie was proued: that is, vntill it were made manifest, that

he was an English man. A man may maruell, what meaning there might be in this : but Bra-Eton cleareth the doubt, who in his third booke trast. 2. cap. 15. num. 2. telleth vs, that when Canutus the Danish king, having fetled his estate here in peace, did at the request of our Barons, disburden the land of his armie, wherein heaccompted his greatest saferic: and conditioned with them, that his countrimen which remained here, should continue in peace; and the more to fecure that, that for every Francigena (vnder which word (as is about laid) he comprehended all outland: In men and women, and especially Danes) that was fecretly murthered, there should be leaused to his Treasutie 66. merkes out of the village, where the murder was comitted, or out of the hundred, if the village were not able to pay it: and further, that every man murdered should be accompted Francigena, except Englecery were proued: which how it was to be proued, looke the 7. number in the same chapter. And see also Horns myrror of Juffices. 1.b. 1. cap. del office del coroner, and Fleta lib. 1. cap. 30. This Englecerie for the abuses and troubles that afterwarde were perceiued to grow by it, was cleane taken away, by a flatute made anno

Bb 3

14. Ed. 3. capite quarto.

Enheritance. See Inberitance.

Enquest (Inquisitio) is all one in writing with the french word, and all one in fignification both with the French and Latine. Howbeit, it is especially taken for that Inquisition, that neither the Romanes, not French men euer had vie of, that I can learne. And that is the Enquest of Iurors, or by Iurie, which is the most vfualltriall of all causes both ciuile and criminall in our realme. For in causes civill after proofe is made of either side, so much as each partie thinketh good for himselfe, if the doubt be in the fact, it is referred to the difcretion of twelue indifferent men, empaneled by the Shyreeue for the purpose: and as they bring in their verdict, fo judgement passeth. For the ludge saith, the Turie findeth the fact thus: then is the law thus: and fo we indge. For the enquelt in causes criminall, fee Iurie, and fee Sir Thomas Smith de Repub. Anglor. lib. 2. cap. 19. An enquest is either of office, or at the mife of the partie. Stawnf. pl. cor. lib. 3. cap. 12.

Entendment, commeth of the French (entendement. i. in ellectrus, ingenium.) It fignifieth in our common lawe to much, as the true meaning or fignification of a word or sentence. See of this Kuchin, fol. 224.

Entayle (feudum talliatum) commeth of the French (entaille. i. inscisus) and in our comon lawe, is a substantine ab. ftract, fignifying Fee-tayle, or Fee-intayled. Litleton in the fecond chapter of his book, draweth Fee-tayle from the verbe Talliare, (which whence it commeth, or whether it will Iknow not) whereas in truth it must come from the French (taille, i. (ectura,) or (tailler. i. scindere, secare) And the reason is manifest, because fee-tayle in the law, is nothing but fee abridged, scanted or curtelled, (as you would fay,) or limited and tyed to certaine conditions. Taille in Fraunce is metaphorically taken for a tribute or subsidie. v. Lupanum de Magistratibus Francori. lib. z. cap. Talea. See Fee. Sec Tayle.

Enterpleder (Interplacitare) is compounded of two french words: (entre.i. inter) and (pleder.i. disputare) and it fignishesh in our common law, as much as cognitio presidicialis in the civile law: that is, the discussing of a point incidently falling out, hefore the principall cause can take end. For example, two several persons being sound heires to land by two severall offices in one countie, the king is brought in doubt to whether livery ought to be made: and therefore be-

forc

fore livery be made to either, they must enterpleade, that is, formerly try betweene them felues, who is the right heire. Stawnf. praroga: chap. 19. See more examples in Brooke, titulo Enterpleder.

Entiere tenancie, is contrary to feuerall Tenency, fignifiing a sole possession in one man: wheras the other fignifieth joynt or common in more. See Brooke feuerall tenancy. See the new booke of Entries, verbo Entier

tenancy.

Entry (Ingressus) commeth of the french (Entree.i. introitus ingressus, asitus) and properly fignifieth in our common lawe, the taking possession of lands or tenements. See Plowden. Affise of fresh force in London. fo. 93. b. It is also vsed for a writ of possesfion, for the which See Ingress. And read West also, parte. 2. Symbol. titulo Recoueries. (ect: 2.6.3. Who there sheweth for what things it lyeth, and for what it lyeth not. Of this Britton in his 114. chapter writeth to this effect. The writs of entrie fauour much of the right of propertie. As for example: some be to recouer customes and services: in the which are contained these two words (folet & debet) as the writs Quo iure, Rationabilibus dinifis, rationabili estoverio, with such like. And in this plee of entrie there

be three degrees: The first is. where a man demanderh landes or tenements of his owne seisin, after the terme is expired. The fecondis, where one demaundeth lands or tenements let by another after the terme expired. The third, where one demaundeth lands or tenements of that tenent, that had entry by one, to whom some auncestor of the plaintife did let it for a term now expired. According to which degrees the writs for more fit remedie are varied. And there is vet a fourth forme, which is without the degrees, and in case of a more remote seifin, whereunto the other three degrees do not extend. The writin the second degree is called a writ of entrie in le per: and a writ in the third degree is called a writ of entrie in le per & eni: and the fourth forme without these degrees, is called a writ of entry in le post, that is to fay, after the diffeifin which fuch a one made to fuch a one. And if any writ of entry be conceiued out of the right cafe, fo that one forme be brought for another, it is abarable. The form of the first degree is such. Pracipe Willielmo gnod reddar Petromanerium de B. cum pertinentiis quod ille dimisit pro termino, qui est elapfus. The second is such: Pracipe Petro quod reddat Willielmo mane-

rium,

rium ecc. in quod ille non habuit ingressum nisi per patrem aut matrem, avunculum vel amitam vel cognatum, avum vel proavum dicti Petri, qui di tum manerium dimist pro termino qui est elapsus. The third forme is such: Precipe Iohanne quodreddat Petro manerium de S. in quodille non habuit ingressum nisi per T. cui talis pater vel mater, vel alius antecessor aut cognatus idem dmisit, cuius hares est ipse Petrus, pro termino, qui est elapsus. And the forme without the degrees is such: In quod non habuit ingressum, nisi post lessam, quam talis pater aut mater (sic vt supra) cuius beres ille est, inde fecit pro termino, qui est elapsus. And in those foure degrees be comprehended all maner writs of entry, which be without certaintie and number. Thus farre Britton : by whome you may perceive, that those words (folet & debet) and also those other words (in le per) (in le per & cui) and (in le post) which we meete with many times in bookes shortly and obscurely mentioned, do signifie nothing else, but divers formes of this writ, applyed to the case, whereupon it is brought, and each formetaking his name from the faid words contained in the writ. And of this reade Fitz. in his nat. br. fol. 193. 6 194. This writ of entry differeth from an affife, because it lycth for the

most part, against him, who entred lawfully, but houldeth against lawe: whereas an assiste lyeth against him that ynlawfully disseifed: yet sometime a writ of entrie lyeth ypon an intrusion. Regist. orig. fol. 233. b. See the new booke of Entries, verbo. Entre Brevis. fol. 254. colum. 3. I reade of a writ of entry in the nature of an assist. Of this writ in all his degrees, reade Fieta lib. 5. cap. 34. & seq. 5.

Entrusion (Intrusio) in our comon lawe, fignifieth a violent or vnlawfull entrance into lands or tenements, being vtterly voide of a possessour, by him that hath no right nor sparke of right vnto them. Bracton lib. 4. cap. 2. For example, if a man steppe in vpon any lands, the owner whereof lately died, and the right heire, neither by himselfe nor others, as yet hath taken poffession of them. What the difference is betweene Abator and Intrudor, I do not well perceiue, except an Abatour be he that steppeth into land voide by the death of a tenent in fee, and an Entrudour that doth the like into lands,&c. voide by the death of the tenent for termes of life or yeares. See Fitz. nat. br. fol. 203. F. The authour of the new Termes of law would have abatement latined, (Interpolitionem, aut Introitionem per interpositionem) and to be re-

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fpringeth the Italian word (Zeccha) fignifiing a mynt: and Zeccherii alias Zecchieri) the officers thereunto belonging, Descis. Genuen 134. M. Cam. in his Britan.p. 113. faith that this court or office tooke the name à tabula ad quam assidebant, proouing it out of Gernasius Tilburiensis, whose words you may read in him. This court is taken from the Normans, as appeareth by the grand Custumarie. cap. 56. where you may finde the Eschequier thus described. The Eschiquier is called an affemblie of high Insticiers, to whome it appertaineth to amend that which the Baliffes and other meaner Iusticiers have euill done, and vnaduisedly judged: and to doe right to all men without delaie, as from the princes mouth: Skene de verbo. significatione: verbo (Scaccarium) hath, out of Paulus Amilius these words: Scaccarium dicitur quasi Statarium, quod homines ibi in iure listantur, vel quod sit stataria & perennis Curia, cum cetera curia esfent indictiva, nec loco nec tempore stata: where he saith also of himselfe, that in Scotland the Eschequer was stable, but the other fession was deambulatorie, before lamesthe 5. qui instituit Statariam curiam, cum antea effet indictiva: he addeth farder: Others thinke that Scaccarium is so called a similitudine ludi Scaccorum, that is the play of the chests: because many persons meete in the Chequer, pleading their causes one against the other, as if they were fighting in an arraied battaile: Others think that it commeth from an old Saxon word (Scata) as writeth S. Thomas Smith, which fignifieth treasure, taxation, or imposts, whereof accompt is made in the Chequer: This court confisteth, as it were, of 2. parts: whereof one is conversant especially in the judiciall hearing and deciding of all causes appertaining to the princes cofers, auncient. ly called Scaccarium computorum, as Ockam testifieth in his lucubrations: the other is called the reccipt of the Eschequer, which is properly imploied in the receiuing and paiment of money. Crompton in his Inrisdictions, fo. 105 defineth it to be a court of record, wherein al causes touching the reuenewes of the crown are handled. The officers belonging to both these, you may find named in M. Camdens Britannia,ca. Tribunalia Anglia,to whome I referre you. The kings exchequer which now is fetled in Westminster, was in divers countries of Wales, anno 27. H. 8. ca.s. but especially ca.26.

Escheate (Eschaeta) cometh of the French (escheoir, i. cadere, acci-

Cc 2

dere

dere excidere, and fignifieth in our common lawe, any lands or other profits, that fall to a Lord within his maner by way of forfeiture, or the death of his tenet, dying without heire generall or especiall, or leaving his heire within age or vninaried. Maona chart.ca. 31. Fitzh. nat.br.fol. 143.T.&c. Efcheate is also vsed some time for the place or circuit within the which the king or other Lord hath efcheates of his tenents. Bracton li. 2.tract.2.cap.2. & pupilla oculi parte 5.ca.22. Escheate thirdly, is vfed for a writ, which lieth, where the tenent having estate of fee simple in any lands or tenements holden of a superiour lord, dieth seised without heire generall or especiall. For in this case the Lord bringeth this writ against him that possesseth these lands after the death of his tenent, and shall thereby recouer the same in liew of his seruices. Fitzb.nat. br.fol. 144. Thefe that we call Escheats, are in the kingdome of Naples called Excadentia or bona excadentialia: as: Baro locat excadentius eo modo quo locata fuerut ab antiquo: ita quod in nullo debita servitia minuantur, & non remittit gallmam debitam : Iacobutius de Franchis in praludiis ad feudorum v [im, tit. I.nu. 29.6 nu. 23.v. Maranta singularia, verbo Excadentia. And in the fame fignification, as we say the fee is escheated, the Feudists vse (feudum apertur. li.1. feud. titule. 18.5.2. ti.15. & ti.26.5.4.

Escheatour (Escaetor) commeth of (Escheate) and fignifieth an officer that observeth the Esche. ates of the king in the countie. whereof he is Escheatour, and certifieth them into the Eschequer: This officer is appointed by the L. treasurer, and by leters patents from him, and continueth in his office but one yeare, neither can any be Efcheatour 2boue once in 3. yeares.anno.1.H. 8 cap. 8. & anno 3. eiusd.ca. 2. See more of this officer and his authoritic in Cromptons Instice of peace. See an. 29. Ed. 1. The forme of the Escheatours oath, fee in the Register original. fol. 201 . b. Fitzh. calleth him an officer of record.nat.br.fol. 100.C. because that which he certifieth by vertue of his office, hath the credit of a record. Officium escaetria, is. the escheatourship. Register. orig.fo.259.6.

Escuage (Scutagii) commeth of the French (Escu. i. chypeus) a bucker or sheild. In our common lawe, it signifies ha kinde of knights service, called service of the shield, whereby the tenent holding is bound to sollow his Lord into the Scottsh or Welsh warres, at his owne charge: for

the

the which see Chyvalrie . But note that Escuage is either viicertaine or certaine. Escuage vncertaine, is properly Escuage, and knights feruice, being subject to homage fealtie, ward and mariage, so called, because it is vncertaine how often a man shalbe called to followe his lord into those wars, and againe what his charge wilbe in each journey. Escuage certaine, is that which yearely payeth a certaine rent in lieu of all scruices, being no further bound then to pay his rent, called a knights fee, or halfe a knights fee, or the fourth part of a knights fee, according to his land & this leefeth the nature of knights feruice, though it hold the name of Escuage, being in in effect, Soccage. Fitzh. nat. br. fol. 84. C.

Esnecy (AEsnecia) is a prerogative given to the chiest coparcener, to choose first after the inheritance is divided. Fleta.li. 5.

ca. 10.5.in divisionem.

Esplees (Expletia) seeme to be the full profits that the ground or land yeldeth, as the hay of the medowes, the seede of the passure, the corne of the earable, the rents, services, and such like issues: Ingham. It seemeth to proceede from the latine (expleo). The profits comprised under this word, the Romans call properly accessiones. Nam accessionum nomi-

ne intelligütur ea generaliter omnia, que ex re, de qua agitur, orta sunt, veluti fruelus, partus, & omnis causarei, & quacunque ex re procedunt. l. 2. \pi. De in diem adiectio. li. 50. \pi. Ad Trebel. l. 61. \\$. biis etiam. \pi. de furt. See the new Terms of law.

Esquier (Armiger) is in leters little altered from the french (Escuier. i. scutiger) It signifieth with vs a gentleman, or one that beareth armes, as a testimony of his nobilitie or gentrie. S. Thomas Smith is of opinion, that at the first, these were bearers of armes to Lords and Knights, and by that had their name and dignity. Indeede the french word is sometime translated (Agaso) that is, a boy to attend or keepe a horse, and in ould English writers, it is vsed for a lackey or one that carieth the shield or speare of a knight. Mast. Camden in his Britannia pag: 111. hath thefe words of them; having spoken of Knights: His proximi fuere Armigeri, qui & scutiferi, hominesq, ad arma dicti, qui vel a clypeis gentilitiis, que in nobilitatis insignia gestant: vel quia principibus e maioribus illis nobilibus ab armis erant, nomen traxerunt. Olim enim ex biis duo unicuique milits scruiebant, galeam clypeumque gestabant. &c. Hotoman in the fixth chapter of his disputatios vpon the feods faith, that these which the Cc 3 French

French men call Escuers) were a militarie kinde of vassall haueing ins scuti, which is as much to say (he there interpreteth him selfe) as that they bare a shield, and in it the ensignes of their family, in token of their gentility or dignity.

Essendi quietum de telonio, is a writ that lieth for Citizens or burgesses of any city or towne, that have a charter or prescription to exempt them from tolle, through the whole realme, if it chaunce they be any where exacted the same. Fizzh. nat. br. fol.

226. Register fol. 258.

Estoine (Estonium) commeth of the French (Estonie or exonnie. i. causarius miles) he that hath his pretence forborne or excused vpon any iust cause, as sicknesse or other incumbrance. It signisieth in our common lawe, an alledgement of an excuse for him that is summoned, or sought for to appeare and answer to an action reall, or to performe suite to a court baron, vpon iust cause of absence. It is as much as (exensatio) with the Civilians. The causes that serue to Essoine any man summoned, be divers & infinite: yet drawne to fiue heads, whereof the first is (oltra mare) the second (de terra sancta) the third (de malo vemendi) which is also called the common Essoine the fourth is (de malo lette) the

fifth (de seruitio Regis) For further knowledge of thefe, I referre you to Glanvile in his whole first booke, and Bratton li. s. ira-Etat. 2. per totum. and Brittan ca. 122.123.124.125.and to Horns mirrour of Iustices, li. 1. ca.des Es. Coinis, who maketh mention of fome more Estoines touching the service of the king celestiall, then the rest doe, and of some other points not vnworthie to be knowne. Of these essoines you may reade farder in Fleta 1.6.c.8. & fegg. & that these came to vsfro the Normans, is well shewed by the Grand Custumarie, where you may find in a maner all faid, that our lawyers have of this mater, 6ap. 39. 40. 11. 42. 43. 44. 45.

Essoines and profers, anno 32.

H.8. cap. 21. Sec Profer.

Essonio de malo lecti, is a wit directed to the Shyreeue, for the sending of 4. lawfull knights to view one that hath essonied himselfe de malo lecti. Register. o-

reg.fol.8.b.

Establishment of dower, seemeth to be the assurance of dower, made to the wife by the husband or his freinds, before or at mariage. And assignment is the setting it out by the heire afterward, according to the Establishment. Britton. cap. 102. & 102.

Estandard or Standard, com-

meth of the French (Estandart) or Estendart.i. signum vexillum. It fignifieth an Enfigne in warre, as well with vs as with them. But it is also vsed for the principall or standing measure of the King , to the fcantling whereof, all the meafures through the land, are or ought to be framed by the Clerk of the market, Aulneger, or other officer according to their functions, For it was established by the statute of Magna charta. anno 6. H. z.ca. 9. that there should be but one scantlin of weights or measures thorough the whole realme, which is fithence confirmed by Anno 14. Ed. 3. ca. 12. and many other statutes, as also that all should be fitted to the Standard sealed with the kings feale. It is not called a Standard without great reason : because it Plandeth constant and immoucable, and hath all other measures comming toward it for their conformitie, euen as souldiours in field have their Standard or colours for their direction in their march or skirmish. Of these Standards and measures. reade Britton. cap. 30.

Estate, commeth of the French (Estat. i. conditio) and fignifieth especially in our comon lawe, that title or in-

terest, which a man hath in lands or tenements, as estate simple, otherwise called fee simple, and estate conditionall or vpon condition, which is (as Litleton faith, le. 3. ca.5. leither vpon condition indeede, or vpon condition in lawe. Estate vpon condition in deede is , where a man by deede indented infeoffeth another in fee, referuing to him and to his heires yearelie a certaine rent paiable at one feast or at divers, vpon condition that if the rent be behind, &c. that it shall be lawfull to the feoffour and to his heires, to enter in the lands or tenements, &c . Estate vpon condition in lawe. is such as bath a consideration in the lawe annexed toir. thoughit be not specified in writing. For example, if a man graunt to another by his deed, the office of a Parkership for terme of his life, this estate is vpon condition in the lawe, or imploied by lawe. viz. if the Parker so long shall wel and truly keepe the parke, &c . I reade also of an estate particular, which is an estate for life or for yeares. Farkins Surrenders. 581.

Estopel, seemeth to come from the French (estouper. i. oppilare, obturare, stipare, obstipare) and signi-

fieth

fieth in our common lawe, an impediment or barre of an action growing from his owne fact, that hath or otherwise might haue had his action: for example: A tenent maketh a feofment by collusion to one: the Lord accepteth the services of the feoffee: by this he debarreth himselfe of the wardship of his tenents heire. Fitz. nat. br. fo. 142. K. Diuers other examples might be shewed out of him and Brooke h. titule Sir Edward Cooke. lib. 2. casu Goddard fol. 4. 6. defineth an estopel to be a barre or hindrance vnto one to pleade the truth, and restraineth it not to the impediment giuen to a man by his owneact onely, but by anothers also. li. 3. The case of Fines. fol. 88. a.

Estovers (Estoverium) commeth of the French (eftouver . 1. fovere) and fignificth in our common lawe, nourishment maintenance: for example: Bracton. lib. 3. tractat. 2. cap. 18. num. 2. vieth it for that fuftenance, which a man taken for relonie, is to have out of his lands or goods for himfelfe and his family, during his imprisonment: and the statute anno 6.Ed. prim. cap. 3. vieth it for an allowance in meate or cloath. It is also vsed for certaine allowances of wood, to be taken out of another mans woods. So is it vied

West. 2. cap. 25. anno 13. Edw. 1.
M. West parte 2. Symbol. titulo Fines. sett. 26. saith, that the name of Estovers containeth housebote, hay-bote, and plow-bote as if he haue in his graunt these generall words: De rationabili estoverso in boscis. co. he may thereby clay me these three.

Estrepement, or Estripament. (estrepementum) commeth of the French word (estropier. i.mutilare, obtruncare) the which word the French men haue also borowed of the Italians, or rather Spaniards, with whome (Estropear) fignifieth to set vpon the racke. It fignifieth in our common lawe, spoile made by the tenent for terme of life, vpon any lands or woods, to the prejudice of him in the reversion, as namely in the Statute anno 6. Ed. 1.ca. 13. And it may seeme by the derivation, that Estrepament is properly the vnmeasurable soaking or drawing of the heart of the land by ploughing or fowing it continually, without manuring, or other fuch vlage as is requifite in good husbandrie. And yet (Estropier fignifying mutilare) ir may no lesse conveniently be applied to those, that cut downe trees or loppe them farder then the lawe will beare. This fignifieth also a writte, which lieth in two forts, the one is, when a man hauing an action depen-

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ding (as a fordom, or dum fuit infra atatem, or writ of right, or any such other) wherein the demandant is not to recouer dammages, fieweth to inhibite the tenent for making waste, during the suite. The other fort is for the demaundant, that is adjudged to recouer seifin of the land in question, and before executio siewed by the writ Habere facias seismam, for feare of waste to be made before he can get possession, sieweth out this writ: See more of this in Fitzh. nat. br. fol. 60. & 61. See the Regifter orig. fol. 76. and the Regift. indicial. fol. 33.

Estreate (extractum vel extracta) commeth of the French (Traict) which among other things signifieth a figure or resemblance: and is vied in our common lawe, for the copie or true note of an original writing. For example, of amerciaments or penalties set downe in the rolles of a court, to be leavied by the Bayliste or other officer, of every man for his offence. See Fitzh. nat. br. fol. 75. H. I. K. & 76. A. And so is it vied Westm. 2. cap. 8.

anno 13. Edw. 1.2 Head all aloo

Estrey (extrabura) in our common law signifieth any beast not wilde, found within any Lordship, and not owned by any man. For in this case, if it being cried, according to lawe, in the market townes adioyning, shall not be claimed by the owner within a yeare and a day, it is the Lords of the soyle. See Britton cap. 17. See Estrayes in the Forest, anno 27. H. 8. cap. 7. New booke of Entries. verbo. Trespas concernant estrey.

Evidence (Evidentia) is vied in our lawe generally for any proofe, be it testimonie of men or instrument. Sir Thomas Smith vseth it in both fortes. lib. 2. cap. 17. in these words: Evidence, in this fignification, is authenticall writings of contracts after the maner of England, that is to fay, written, fealed, and deliuered. And lib. 2. cap. 23. speaking of the prisoner that standeth at the barre, to pleade for his life, and of those that charge him with felonie, he faith thus: then he telleth what he can fav: after him likewise all those, who were at the apprehension of the prisoner, or who can give any Indices or tokens, which we call in our language (Evidence) against the malefactour.

Examiner in the Chauncerie or Starre-chamber, (examinator) is an Officer in either Court, that examineth the parties to any fuite ypon their oathes, or witnesses producted of either side: whereof there be in the Chauncerie two.

Exception (exceptio) is a stoppe

or stay to an action, being vsed in the civill and common lawe both alike, and in both divided into dilatorie and peremptorie. Of these see Brast. lib.s. trast. 5. per totum, and Britton cap. 91.92.

Exchaunge, (excambium, vel cambium) hath a peculiar fignification in our common lawe, and is yied for that compensation, which the warrantor must make to the warrantee, valewe for value, if the land warranted be recovered from the warrantee. Bracton lib. 2. cap. 16. & li.I. cap. 19. It fignifieth also generally as much as (Permutatio) with the Civilians, as the Kings Exchaunge, anno I. H. 6. cap. I. 6 1. 6 anno 9. Ed. 3. stat. 2. 6ap. 7. which is nothing elfe, but the place appointed by the king for the exchaunge of bullion, be it gold or filuer, or plate,&c. with the Kings coine. These places haue bene diuers heretofore as appeareth by the saide statutes. But now is there only one, viz. the tower of London conjoyned with the mint. Which in time past might not be, as appeareth by anno 1. Henrici 6.ca.4.

Exchequer, see Eschequer. Excheatour, see Escheatour.

Excommunication, (excommunicatio) is thus defined by Panormitan: Excommunicatio of nihil alud, quam censura a Canone, vel Indice ecclesiastico prolata & insi-

Eta, privans legitima communione sacramentorum, & quandoque ho minum. And it is divided in maiorem & minorem, Minor est, per quam quis à Sacramentorum participatione conscientia vel sententia arcetur. Maior est, que non solum à Sacramentorum, verum etiam sidelium communione excludit, & ab omni actulegitimo separat & dividit. Venatorius de sentent excom

Excommunicato capiendo, is a writ directed to the Shyreeue, for the apprehension of him that standeth obstinately excommunicated for fortie dayes: for such a one not seeking absolution, hath or may have his contempt certified or signified into the Chauncerie, whence issueth this writ, for the laying of him vp without baile or mainprise, vntill he conforme himselfe. See Fitz. nat. br. fol. 62. Granno 5. Eliz cap. 23. and the Regist. orig. fol. 65. 67. Gran.

Excomunicate deliberando, is a writ to the vnder shyrecue, for the deliuery of an excomunicate person out of prison, vpon certificate from the Ordinary of his conformitie to the jurisdiction ecclesiasticall. See Fuzh. nat. br. fol. 63. A. and the Register fol. 65. & 67.

Excommunicato recipiendo, is writ whereby persons excommunicate, being for their obstinaci committed to prison, and wn

lawfull

lawfully deliuered thence, beforethey have given caution to
obey the authority of the church,
are commaunded to be fought
for and laide vp againe. Register
orig. fo. 67. a.

Executione facienda, is a writ commaunding execution of a indgement: the diners vies wherof, see in the table of the register indicials. verbo Executione faci-

enda.

Executione facienda in Withernamum, is a writ that lyeth for the taking of his catell, that formerly hath conueyed out of the county the catell of another, so that the bayliffe having authority from the shyreeue, to repleuy the cattell so conveighed away, could not execute his charge. Register original, fol. 82. b.

Execution (Executio) in the common law, fignifieth the last performance of an act, as of a fine, or of a judgement. And the execution of a fine, is the obtaining of actuall possession of the things contained in the same, by vertue thereof: which is either by entry into the lands, or by writ: whereof fee West at large, parte. 2. Symbol. titulo Fines feet: 136. 137. 138. Executing of iudgements, and statutes, and such like, see in Fitzb. nat. br.in Indice. 2. Verbe Execution. S.Ed. Coke. vol: 6. casu Blumfield. fo. 87. a. maketh two forts of executions,

one finall, another with a (quoufque) tending to an end. An execution finall is that, which maketh mony of the defendants goods, or extendeth his lands, and deliuereth them to the plaintife. For this the party accepteth in fatiffaction; and this is the end of the fuite, and all that the kings writ commaundeth to be done. The other fort with a (Quousque) is tending to an end, and not finall, as in the case of (capias ad (atisfaciendum &c.) this is not finall: but the body of the party is to be taken to the intent and purpose to satisfie the demaundant: and his imprisonment is not absolute, but vntill the defendant doe satisfie. Idem ibidem.

Executour (Executor) is he, that is appointed by any man, in his last will and testament, to haue the disposing of all his substance, according to the content of the faid will. This Executor is either particular or vniuerfall. Particular, as if this or that thing onely be committed to his charge. Vninerfall, if all. And this is in the place of him, whom the Civilians call haredem, and the law accounteth one person with the party, whose executor he is, as having all advantage of action against all men, that he had, fo likewise being subject to every mans action, as farre as himselfe was. This executor had

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his beginning in the civill lawe. by the constitutions of the Emperours, who first permitted those, that thought good by their wils to bestowe any thing ypon good and godly vies, to appoint whome they pleafed, to see the same performed, and if they appointed none, then they ordained that the bishop of the place should have authoritie of course, to effect it.l. 28.C. de Epifcopis & ciericis. And from this in mine opinion, time and experience hath wrought out the vse of these vniuersall executors, as also brought the administration of their goods that die without will, vnto the Bishop.

Exemplificatione, is a writ granted for the exemplification of an originall, fee the Register original.

fol. 290.

Ex gravi querela, is a writ that lieth for him, vnto whome any lands or tenements in fee within a city, towne or borough, being devisable, are deuised by will, and the heire of the deuisour entreth into them, and detaineth them from him. Register originall. fol. 244. Old nat. br. fol. 87. See Fitch, nat. br. fol. 198. L.

Exigendarie of the common banke (Exigendarius de banco comuni) is otherwise called Exigenter, anno 10. H. 6. cap. 4. and

is an officer belonging to that court, for the which see Exigen-

Exigent (Exigenda) is a writ. that lyeth where the defendant in an action personall, cannot be found, nor any thing within the county, whereby to be attached or diffrained, and is directed to the Shyreeue, to proclaime and call fine county daies one after another, charging him to appeare vnder the paine of outlawrie. Termes of the law. This writ lyeth also in an indicament of felony, where the party indicted cannot be found : Smith de Rep. Angl. li. 2. ca. 19. It seemeth to be called an Exigent : becauseit exacteth the party, that is, requireth his expearance or forthcomming, to answer the lawe, for if he come not at the last daies proclamation, he is faide to be gainquies exactus, and then is outlawed. Crompton Iurifd. fol. 188, and this M. Manwood alfo fetteth downe for the law of the forest. parte .i. of his forest lawes pag. 71. See the new booke of Entries verbo Exigent.

Exigenter (Exigendarius) anno 18. H. 6. ca. 9. is an officer of the court of common plees, of whom there be foure in number: They make all Exigents and proclamations in all actions, where process of outlawrie doth lie, and writs of supersedeas, as

well

well as the protonotaries, ypon fuch exigents, as were made in their offices.

Ex mero motu. are words formally vsed in any charter of the Prince, whereby he fignifieth, that he doth that which is cotained in the charter of his owne will and motion, without petition or suggestion made by any other. And the effect of these words are to barre al exceptions, that might be taken vnto the instrument wherein they be contained, by alledging that the Prince in paffing that charter, was abused by any false sugge-Stion: Kitchin fel. 151.

Exoneratione fecte, is a writ that lyeth for the kings ward, to be disburdened of all suite.&c. to the Countie, Hundred, Leet, or court Baron, during the time of his wardship. Fitz. nat. br. fol.

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Exparte latis, is a writ that lyeth for a Bayliffe or Receiver, that having Auditours assigned to heare his accompt, cannot obtaine of them realonable allowance, but is cast into prison by them. Regist. fol. 137. Firah. nat. br. fol. 129. The maner in this case is, to take this writ out of the Chauncerie directed to the 100 Shyreeue, to take foure mainperuours to bring his bodie before the Barons of the Echequer at a day certaine, & to warn the Lord

to appeare at that time: Nowe Tearmes of the lawe. verb. Ac-

compt.

Expectant, is vied in the commonlawe with this word (fee) and thus vsed, it is opposite to Fee-simple. For example, lands are giuen to a man and his wife in franke mariage, to haue and to hold to them and their heires. In this case they have Fee simple. But if it be given to them and the heires of their body, &c. they have tayle and fee expectant. Kitchin fol. 153. Mathaus de afflictis vseth the Adiecline (expeltativa) substantinely in the same fignification. Descis. 292. num. 2. pag. 412.

Explees. See Espleese.

Expeditate (expeditare) is a word vsuall in the Forest, fignifiing to cut out the balles of the great dogges feet, for the preservation of the Kings game. Eucry one that keepeth any great dogges not expeditated, forfeiteth to the king 3. shillings 4. pence. Crompt. inrifd. fel. 152. M. Manwood vieth the same word, parte prim. of his Forest lawes, pag. 205. and pag. 212.he fetteth downe the manner of expeditating dogges heretoforel, viz. Quod tres ortelli abscimdantur sine pellota de pede anteriori. i. that the three clawes of the forefoot on the right side, shall be cut off by the skinne, whereunto he also addeth out of the same ordinance, called the Assis of the Forest, that the same maner of expeditating of dogges, shall be still vsed and kept, and none other. Quare whence it groweth, that M. Crompton and hee differenthe one saying, that the ball of the foote it cut out, the other that the three foreclawes are pared off by the skinne.

Expensis militum levandis, is a writ directed to the shyreeue, for levying the allowance for Knights of the Parlament. Regi-

ster original.fol. 191.b.

Expensismilitum non levandis ab hominibus de antiquo dominico, nec à natinis, is a writ whereby to prohibite the Shyreeue from levying any allowance for the Knights of the Shire, upon those that hold in auncient demesin, &c. Regist. orig. fol. 261. b.

Extend (extendere) commeth of the French (estendre.i. dilatare, dispandere, distendere) and significath in our common lawe, to valew the lands or tenements of one bound by statute, &c. that hath forfeited his bond, to such an indifferent rate, as by the yearely rent the obligour may in time be paide his debt. The course and circumstances of this see in Fitzh. nat. br. fol. 131. Brief dexecution for statut Merchant.

Extendifacias, is a writ ordi-

narily called a writ of extent, whereby the valew of lands,&c. is commaunded to be made and leavied in divers cases, which see in the table of the Register originals.

Extent (extenta) hath two fignifications, fometime fignifiing a writ or commission to the shyreeue for the valuing of lands or tenements. Register indiciall in the Table of the booke: sometime the act of the Shyreeue or other Commissioner, vpon this writ. Brooke titulo. Extent. fol.

Extinguishment, in our common law, fignificth an effect of consolidation. For example, ifa man haue due vnto him a yearely rent out of any lands, and afterward purchase the same lands, now both the property and rent are consolidated, or vnited in one possessour, and therefore the rent is said to be extinguished. In like maner it is, where a man hath a lease for yeares, and afterwards buyeth the property: this is a consolidation of the property and the fruites, and is an extinguishment of the leafe, See the terms of lawe.

Extinpatione, is a writ Iudiciall, that lyeth against him, who after a verdict found against him for land, &c. doth maliciously ouerthrow any house vpon it, &c. and it is two fold, one ante indi-

cium, the other post indicium: Register indicials fol. 13.56.58.

Extortion (Extortio) fignifieth in our common law, an vnlawfull or violent wringing of mony or mony worth from any man. For example, if any officer by terrifing any the kings subjects in his office, take more then his ordinary duties, he committeth, andis indireable of extortion: To this (by M. Wests judgment) may be referred the exaction of yn'awfull vsurie, winning by vnlawfull games, and (in one word) all taking of more then is due, by colour or pretence of right; as excessive tolle in milners, excessive prices of ale, bread, victuals, wares, &c. West parte.2. Simbol. titulo. Indictments Cett: 65. M: Manwood faith, that extortion is Colore officis, and not virtute officii. parte. I. of his forest lawes, pag. 216. M. Crompton in his Instice of peace fol. 8. hath these words in effect: wrong done by any man is properly a trespas : but excessive wrong done by any is called extortion: and this is most properly in officers, as Shyreeues, Maiors, Baylifes, Escheatours, and other officers what soeuer, that by colour of their office worke great oppression, and excessive wrong vnto the Kings subjects, in taking excessive rewarde, or fees, for the execution of their

office. Great diuersity of cases touching extortion, you may fee in Cromptons Iustice of peace. fol. 48. b. & 49. 6 50. See the difference betweene colore offici, & virtute vel ratione offici. Plond. cafu. Dives. fol. 64. a. This word is yfed in the fame fignification in Italy also. For Cavalcanus de brachio regio, parte 5. num. 21. thus describeth it. Extortio dicitur fieri, quando Index cogit aliquid sibi dari quod non est debiinm, vel quodest vltrà debitum: vel ante tempus petit id, quod post administratam institiam debetur.

Extreats. See Estreats.

Eyre. See Eire.

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Faculty, (facultas) as it is restrained from the original and actine fignification, to a particular vinderstanding in lawe, is yled for a priviledge, or especiall power graunted vnto a man by fauour, indulgence, and dispensation, to do that which by the common lawe he cannot doe: as to eate flesh vpon daies prohibited, to mary without bans first asked, to hold two or more ecclefiafticall livings, the fonne to succeede the father in a benefice, and fuch like. And for the graunting of these, there is an especiall officer under the Archbishop of Canterbury, called (Magister ad facultates) the Master of the faculties.

Fag. anno 4. Ed. 4. cap. 1.

Faint and false action, seeme to be Synonima in Litleton. fol. 144.

For (faint) in the French tongue

fignifieth as much as (fained) in

English.

Faint pleader (falsa placitatio) commeth of the French (feint) a participle of the verbe (femdre. i. simulare, singere) and (pleader. i. placitare.) It signifieth with vs, a false covenous, or collusory maner of pleading, to the deceipt of a third partic. anno 34.

6 35. H. 8. cap. 24.

Faire, alias, Feire, (ferra) commeth of the French (foire) and fignifieth with vs, as much as (Nunding) with the Civilians: that is a folemne or greater fort of market, granted to any towne by priviledge, for the more speedie and commodious prouision of such things, as the subject needeth, or the vtterance of fuch things, as we abound in, aboue our owne vies and occasions: both our English and the French word seeme to come of (Feria) because it is alwaies incident to the priniledge of a Faire, that a man may not be arested or molested in it for any other debt, then first was contracted in the same, or at least was promised to be payed there. an. 17. Ed. 4. cap. 2. 6 anno 1. R. 3. cap. 6.

Faire pleading, see Beau pleader.

Faitours Seemeth to be a French word antiquated, or fomething traduced. For the moderne French word is (fasfeur. i. factor) It is ysed in the statute anno 7. R. 2. cap. 5. And in the cuill part. fignifying a bad doer. Or it may not improbably be interpreted an idle liner, taken from (faitardise) which signifieth a kind of numme or fleepy difeafe. proceeding of too much flug. giffnesse, which the Latines call (veternus.) For in the said statute it feemeth to be a Synonymon to Vagabound.

Falke land, alias, Folke land.Sce

Copi-hold and Free-hold.

False imprisonment, salsum imprisonamentum) is a trespasse comitted against a man, by imprisoning him without lawefull cause: it is also vsed for the with which is brought upon this trespasse. Fuz nat. br. fol. 86. K. & 88. P. v. Broke h. t. See the new booke of Entries. verbo. False imprisonment.

Falso iudicio, is a writ, that lyeth for false iudgement giuen in the county, Hundred, Court Baron, or other courts being no court of record, be the plea reall or personall. Register originals fol. 15: Fitzh. nat. br. fol. 17. See the new booke of Entries, verboFalse

indgement.

Falso returno breumm. is a wit lying lying against the Syreeue, for false returning of writs. Register indic. fo. 43. b.

Falsifie, scemeth to signifie as much, as to proue a thing to be false. Perkins Doner. 383.384.

385.

Farding, or farthing of golde. seemeth to be a come vsed in auncient times, containing in valew the fourth part of a noble. viz. twenty pence filuer, and in weight the fixth part of an ounce of gould, that is, or five shillings in filuer, which is threepence and fomething more. This word is is found anno 9. H. s. flat. 2. ca. 7. thus: Item that the king doe to be ordained good and just weight, of the noble, halfe noble, and farthing of gould, with the rates necessary to the same, for euery city, &c. by which place it plainly appeareth, to haue bene a coine, as well as the noble and halfe noble.

Farding deale alias Farundell of land (Quadrantataterra) fignificth the fourth part of an acre. Crompt. Iurifd fol. 220. Quadrantata terra. is read in the register orig. fol. 1. b. where you have also Denariata & obolata, folidata, & librataterra, which by probabilitie must rise in proportion of quantitie from the farding deale, as an halfepeny, peny, shilling, or pound rise in valew and estimation: then must obolata be halfe

an acre, denariata the acre, solidata twelue acres, & libratatwelue score acres, and yet I find (viginti libratas terra vel reditus. Regift. original. fol. 94.a & fol. 248. 6. Whereby it seemeth, that librata terra, is so much as veeldeth twenty shillings per annum, and centum foliditas terrarum tenement orum & redituum. fol. 249. a. And in Fitz. wat. br. fol. 87. F. I find these words : viginti libratas terravel reditus, which argueth it to be so much land as twenty shillings per annum. See Furlono.

Fate or Fat: is a great wooden vessell, which among brewers in London, is ordinarily vsed at this day, to measure mault by, containing a quarter, which they have for expedition in measuring. This word is read anno t. H. s. cap. 10. & anno 11. H.6.

cap. 8.

Fealtie (fidelitas) commeth of the French (feaulte. i. fides) and fignifieth in our common lawe, an oath taken at the admittance of every tenent, to be true to the Lord, of whom he holdeth his land. And he that holdeth land by this onely oath of fealty, holdeth in the freelf maner, that any man in England under the king may hold: be cause all with vs that have fee, hold (pen sidem of fiduciam) that is, by fealtie at the least. Smith de Repub. Anglor is.

Ee, I cap.

cap. 8. for, fidelitas est de substantia feudi, as Dwarenus saith de feud. cap. 2. num. 4. and Matheus de afflictis decis. 320. num. 4. pag. 465. faith, that fidelitas est substantiale fends, non servitium. The particulars of this oath, as it is ysed among the feudists, you may reade well expressed by Zasus in his Tractate de feudis. part. 7. num. 15. & 16. which is woorth the comparing with the viuall oath taken here in our part of Britannie. This fealtie is alfo yled in other nations, as the Lombards and Burgundians. Cafsaneus de consuet. Burgund. pag. 419.6 420. And indeed the very first creation of this tenure, as it grew from the loue of the lord toward his followers, fo did it bind the tenent to fidelitie, as appeareth by the whole course of the feods. And the breach thereof is losse of the fee. Duarenus in Commentariis feudorum cap. 14. num. 11. & Wesenbecius in tract. de feudis cap. 15. num. 4 6 legg. Antonius Contrus in methodo fendorum cap. Quibus modis feudum amittitur. Hotoman in his Com nentaries (De verbis fendalibus) sheweth a double fealtic: one generall, to be performed by enery subject to his prince: the other speciall, required only of such, as in respect of their fee are tyed by this oath toward their laudlords: both we may reade of in the grand Custumary of Normandy, being of course performed to the Duke, by all resient within the Dutchie. The effect of the words turned into latine by the Interpreter, is this: Fidelitatem autem tenentur omnes residentes in Provincia Duci facere or fervare: Vnde tenentur scei innocuos in omnibus & fideles exhibere. nec aliquidip fum incommodi procurare: nec eius inimicis prabere contra ipsum consilium vel iuvamen: qui ex hoc inventi fuerint ex sausa manifesta, notabiles & traditores Principis reputantur. Et omnes eorum possessiones perpetue Principiremanebunt, si super hoc convictifue. rint vel damnati: Omnes enimin Normania tenentur Principi sideli. tatem observare. Vnde nullus homagium vel fidelitatem alicuius potest recipere, nisi salva Principis fidelisate. Quod etiam est in eorum receptione specialiter exprimendum. Inter Dominos autem alios & homines fides taliter debet observari, quod neuter in personam alterius personalem violentiam, seu percussionis iniectionem cum violetia, debet irrugari. Si quis enim eoru ex boc fuerit accusatus in curia & connictus, feudam omne debet amittere coe. This fealty special, is with vs performed either by free men or by villeines. The forme of both see anno 14. Ed. 1. flat. 2. in these words: when? freeman shall doe fealty to his lord,

lord, he shall hould his right hand vpon a booke, and shal fay thus: Heare you my lord R. that I. P. shalbe to you both faithfull and true, and shall owe my fealty to you for the land that I hould of you at the terms affigned: So help me god and all his faints. When a villaine shall doe fealty vnto his lord, he shall hould his right hand ouer the booke, and shall fay thus: Heare you my lord. A. that I. B. from this day forth vnto you shalbe true and faithfull, and shall owe you fealty for the land that I hould of you in villenage, and shalbe iustified by you in body and goods: So helpe me god & all his Saints. See the Register criginall. fol. 302. a.

Fee (Feodum, alias Feudum) commeth of the French) Fief. i. predium beneficiarium, vel res clientelaris) and is ysed in our common mlawe, for all those lands which we hold by perpetuall right: as Hotoman well noteth verbo Feom dum.de verbis feudalibus: our aundecient lawyers either not obser-Muing whece the word grew, or at um the least not sufficietly expressing matheir knowledge, what it fignifiemedamong them , from whome ned they tooke it, Fendum whence the word (Fief) or fee commeth, announg niffeth in the German lanords suage (beneficium cuius nomine ofelly ora gnadam gratia testificanda

causa debentur, Flotoman disput. ca. 1. And by this name goe all lands & tenements, that are held by any acknowledgement of any superioritie to a higher Lord. They that write of this subject. doe divide all lands and tenements, wherein a man hath a perpetuall estate to him and his heires, &c, into Allodium & Feudum. Allodium is defined to be euerie mans owne land. &c. which he possesseth meerely in his owneright, without acknowledgement of any feruice, or paiment of any rent vnto any other, and this is a propertie in the highest degree, and of some it is called (allandium ab a privatina particula, & laudum vel laudatio. vt sit pradium cuius nullus author est nisi deus. Est enim laudare, vel Nouio teste, nominare. Quod & Budans docuit ad Modestinum. l. Herennius 63. 7. de hare institu. Prataus.verbo. Allandium. Hotoman in verb. feuda. Feudum is that, which we hold by the benefite of another, and in the name whereof we owe feruice, or pay rent, or both, to a superior lord. And all our land here in England (the Crowne land which is in the kings owne hands in the right of his crowne, excepted) is in the nature of Feudum or fee, for though many a man hath land by descent from his Aunceftors , and many another hath

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dearely boughtland for his money, yet is the land of fuch nature, that it cannot come to any, either by discent or purchase, bur with the burthe that waslaid vpon him, who had novel fee, or first of all received it as a benefire from his Lord, to him and to all fuch to whome it might difcend, or any way be conucied from him. So that if we will reckon with our hoft (as the proverbe is) there is no man here, that hath directum dominium . i. the very propertie or demaine in in any land, but the prince in the right of his crowne. Camd. Britan.pag. 93. for though he that hath fee, hath ins perpetuum, & vtile dominium: yet he oweth a dutie for it: & therefore is it not simply his owne. Which thing I take those words, thetwe vie for the expressing of our deepest right in any lands or tenements, to import: for he that can fay most for his estate, faith thus: I am seised of this or that land or tenement in my demaine, as of fee. Seisitus inde in dominico meo vt de feudo, and that is as much, as if he faid, it is my demaine or proper land after a fort: because it is to me and mine heires for ever: yet not simply mine, because I hold it in the nature of a benefite from another. yet the flatute anno 37. H. S. ca. 16. vieth thefe words of lands invested in the crowne: but it proceedeth

from the ignorance of the nature of this word (fee) for fee cannot be without fealty sworne to a superiour, as you may reade partly in the word (Fealtie) but more at large in those that write de feudis: and namely Hotoman, both in his commentaries and disputations. And no man may graunt, that our king or Crowne oweth fealty to any fuperior but God onely . Yet it may be faid, that land, &c. with vs is termed fee in two respects; one, as it belongeth to vs and our heires for ever; and fo may the Crowne land be called Fee:the other, as it holdeth of another. which is and must be farre from our Crowne. Britton ca. 32. defineth fee to this effect. Fee is a right confitting in the person of the true heire, or of some other, that by iust title hath, purchased it. Fleta faith that Feudum eft quod quistenet ex quacung causa sibi & bæredibus suis, sine sit tene. mentum, sue reditus, qui non proveniunt ex camera, of also modo dicitur feudum, sicut eins qui feoffat, & quod quis tenet ab alio sicut dicitur: talis tenet de tali tot feuda per servitium militare.li. 5.ca. 5.6. Fendum autem. And all that write de fendis, doe hold that (Fendatarius)hath not an entire propertie in his fee: Nay, it is held by right learned men, that these fees were at the first invention or creation

of them . either all or some of them temporarie, and not perpetuall and hereditarie. Iacobutius de Franchis in praludio fend.ca. 2.nu. 1 : 2. The divisions of (fee) in divers respects are many, and those though little knowne to vs in England, vet better worthie to be known, then we commonly thinke. But for our present purpose, it is sufficient to diuide Fee into two forts: Fee absolute, otherwise called simple: and Fee conditionall, otherwise termed fee tayle: Fee fimple (Feudum simplex) is that, whereof we are feifed in these generall words (to vs and our heires for ever.) Fee tayle (Fendum talliatum) is that, whereof we are feized to vs and our heires with limitation, that is , the heires of our body, &c. And fee taile is either generall or speciall. Generallis, where land is giuen to a man and the heires of his body. The reason whereof is giuen by Litleton ca. 2.li 1.bccause aman seised of land by such a gift, if he marie one or more int ! wines, and have no iffue by them, and at the length marie MALE another, by whome he hath iffue, this iffue shall inherit the land: Fee taile speciall, is that, (B) where a man and his wife be e pri feised of lands to them, and the heires of their two bodies. The reason is likewise given by Litleton in the same place, because

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125

in this case, the wife dying without iffue, and he marving ano. ther, by whome he hath iffue, this iffue . cannot inherit the land, being specially given to fuch heires. &c. this Fee taile hath the originall, from the statute of Westm. 2. cap. 1. which was made anno 12. Ed. 1. vet see Bra-Eton. li.2.ca. s.nu. 3. hiis verbis. Item quedam absoluta & larga, & quedam stricta & coarctata, sicut certis baredibus to whome adde Plowden, cafu Willion.fo. 235.a.b. & segg. for before that statute, all land given to a man and his heires, either generall or speciall, was accompted in the nature of fee; and therefore held to be so firmely in him to whome it was given: that, any limitation notwithstanding, he might alienate and fell it at his pleasure: much like that which the Civilians call (Nudum preceptum) binding rather by way of counfell and aduice, then compulsion or restrainte: And this thing feeming vnreasonable to the wisedome of our realme, because so a man meaning well to this or that po-Sterity of himselfe or his freinds, might be forthwith deceived of his intention, the faid flature was made for redresse of this inconvenience, wereby it is ordained, that if a man give lands in feedimiting the heires to whome it shall descend, with a reversi-Ec 110

on to himselfe of his heites for default. &c. that the forme and true meaning of his gift, shalbe observed. Wherefore in what conscience our lawyers have invented meanes; fo eafily to cut off this forme of gift, it is to be confidered . He that bath fee then, holdeth of another by some dutie or other, which is called feruice, and of this feruice and the diversitie thereof, See Chivalrie and Service . He that will learne from what fountaine these feuds or fees did first spring let him read Antonius Contius his first chapter de methodo feudorum, where he shal receive great light for his guide into so obscure a dungeon. See Liege. This word, (Fee) is sometime vsed with vs. for the compas or circuit of a Lordship or maner. Bracton. lib. 2.cap. 5. in these words. In eadem villa & de eodem feodo. Thirdly it is vied for a perpetuall right incorporcall:as to have the kee ping of prilons in fee. old. nat. br.fol.41. Foster in fee eod. fol. 6. Rent granted in fee. eod. fo. 8 Shyreeue in fee.ann 28.Ed pristat. 3. ca. 8. Lastly fee fignifieth a reward or ordinarie dutie, that a man hath given him for the execution of his office, or the performance of his industrie in his art or science: as the lawyer or the phisitian is faid to have his fee, when he hath the confideration of his paines taken, the one with his client, the other with his patient.

Fee expectant, is by the feudists tetrated feudum expectations, or expectation, substantially vsed, Matheus de Affictis deoif. 292.nu. 2 pag. 417. See expectam.

Fee form (fendi sirma) is a compound of Fee. whereof fee (Fee) and (ferm.i colonia, villa, predum rusticum, of (Ferme) commech Fermier du prince. i manceps, redemptor publicorum vectivalium, Publicanus,)Feeferm fignifich in our common lawe, land held of another in fee, that is in perpetuitie to himselfe and his heires, for so much yearely rent, as it is reasonably worth, more or lesse, foir be the fourth part of the worth old tenures, See exposition of the statute of Glocester anno 6. Ed pri. without homage, fealue or other services, other then be especially comprised in the feofment, bur by Fizh. it feemeth that the third part of the value may be appointed for the rent, or the finding of a chaplaine to fing divine fertice, &c. nat. br. fol. 2 to. C. And the nature of it is this that if the rent be behind and inpaid for the space of two yeares, then the feoffour or his heires have action to recover the lands as their demefres. Britton. ca.66.nu. 4. but obserue out of West. Smbol parte 1. lib. 2 feet. 463.

that the feofment may containe seruices and suite of court, as well as rent: and the author of the new terms of law, faith, that Feeferm oweth fealtie, though not expressed in the feofment. for that fealtie belongeth to all kind of tenures: This is neere the nature of that, which among the Civilians is called (ager vestiga. lis qui in perpetuum licetur. i. hac lege ut quam din pro en vectiva! pendatur tam dinneg; ipsis qui conduxerunt, neg; iis qui in locum eorum successerunt, auferri eum liceat. L. I. T. fi ager vectigalis, &c.

Feede (Feida alis Faida) fignifieth in the German toung Guerram.i. (capitales immicitias vel bellum Hotoman disputat: de feudis ca. 2. B. Fæmin 1 dicitur faidam non facere. gloss: in s. vlt. De lege Conradi lib. 2. de feudis, by reason that women by the law, are not subject to warfare, to battell or proclamatió made for that caufe. Skene de verbo: signif. verbo Assidatio. M. Lamberd in his explication of Saxon words writeth it (Feeth) and faith likewise, that it fignifieth capitales inimicitias, and also that (Fend) vsed now in Scotland and the north parts of England, is the same, and that is, a combination of kindred to revenge the death of any of their blood against the killer and all his race.

Fetonie (Felonia) seemeth to

come of the french (Felonnie i. impeluositas, atrocitas, immisericordia) Felonia (faith Hotomande verbis feudalibus) non prascise contumaciam vasalli in dominum, buiufue in vasallum perfidiam significat. verum quoduis capitale facinus. And againe. Felonia Gothis of Longobardis dicitur quod Germanis bodie Schelmarey latinis Scelus. S. Ed. Cooke faith thus. Ideo dicta est felonia qua fieri debet felleo animo. li. A. fo. 124. b. Hoftiensis in sua summa titulo, De fendis, and others speak of this to this effect. Felonia alias Fallonia est culpa vel iniuria propter quam va fallus amittit feudum. Sed bec respicit dominum feudi. Est er alia fattonia que non reficit dominum, sc. guando vasallus interficit fratrem vel filium suum, vel filium fratris, vel aliud crimen commist quod parricidii appellatione continetur. & plures alia fallonia tam respicientes dominum, quam alios propter quas feudum amittitur ibi notantur. We account any offence felonie that is in degree next vnto petit treason, and compriseth divers particulars under it, as murder, theft, killing of a mans felfe Sodometrie, rape, wilfull burning of houses, and divers such like, which are to be gathered especially out of statutes, whereby many offences are dayly made felonie, that before were not. Felonie is discerned from lightter offences by this, that the punishment thereof is death. How be it this is not perpetuall. For petit larcenie (which is the stealing of any thing under the valew of twelve pence) is felony, as appeareth by Broke titulo Coron. num. 2. his reason is , because the indictment against fuch a one must runne with these words, (felonice cepit) and yet is this not punished by death though it be losse of goods. Any other exception I know not, but that a man may call that felony, which is vnder petit treason, and punished by death. And of this there be two forts: one lighter, that for the first time may be releeued by cleargie, another, that may not. And these you must alfo learne to know by the statutes: for Cleargie is allowed, where it is not expressely taken away. Of these maters reade Stampfords first booke of his pl. cor, from the end of the second Chapter, to the 39, and the Hatutes whereby many offences be made felonie, fince he writ that learned booke. See also Lamberds Inflice of peace, lib. 2. cap. 7. in a Table drawne for the purpole. As alfolib. 4. cap. 4. pag. 404. and Crompton in his juffice of peace! fol. 32. 60. Felonie is also punished by loss of lands not entayled, and goods or chatels, as well real as personall: and

yet the statutes make difference in some cases touching lands, as appeareth by the statute, anno 37 H. 8. cap. 6. Felonie ordinarily worketh corruption of bloud, though not, where a statute ordaineth an offence to be selonie, and yet withall saith, that it shall not worke corruption of bloud. As anno 39. Eliz. cap. 17. How many wayes selonie is comitted, see Cromptons Instite of speace. pag. 32. &c.

Feyre. Scc Fayre.

Felo de se, is he that committeth felonie by murthering him-selfe. See Cromptons Institute of peace fol. 28. and Lamberds Eirenarcha, lib. 2. cap. 7. pag. 24:

Fencemoneth, is a moneth, wherein it is vulawful to hunt in the Forest, because in that moneth the female Deere do faune: and this moneth beginneth 15. dayes before Midsomer, and endeth 15. dayes after. So that to this moneth there be 31. daies. See Manwood parte prim. of his Forest lawes. pag. 86.but more at large parte fecunda.cap.13 per totum. It is also called the defence moneth, that is, the forbidden moneth, and the word defence is vsed in like fort. Welt. 2. cap. 47. anno 13. Ed. 1. in these words: All waters where Salmons be taken, shall be in defence for taking of Salmons from the Nativitie &c.

Fennycricke, or rather Fenegreeke. (Fænum Gracum) is a mcdicinall plant or herbe, so called, because it groweth like hey, and commeth out of Greece. Of this you may reade more in Gerrards herball. lib. 2. cap. 483. The feede therof is reckoned among drugs, that are to be garbled. an. 1. Iacob. cap. 19.

Feofment (feoffamentum) by the opinion of Sir Thomas Smith de Repub. Anglor. lib. 3. cap. 8. and M. West part. prim. symbol. lib. 2. fect. 280. is descended from the Gottish word (feudum) which you have interpreted in (fee) and fignifieth (donationem feudi) But (as M. West also addeth) it fignifieth in our common lawe, any gift or graunt of any honors, castels, maners, mesuages, lands, or other corporall and immoueable things of like nature, vnto another in fee simple, that is to him and his heires for euer, by the deliverie of seisin and possesfion of the thing given, whether the gift be made by word or writing. And when it is in writing, it is called a deed of feofment, and in every feofment the giuer is called the Feaffour (feoffator,) and he that receiveth by vertue thereof, the Feoffee (feoffatus) and Litleton faith, that the proper difference betweene a feoffour and a donour is, that the feoffour giueth in fee-simple, the

donour in fee-taile. lib. 1. cap. 6.

Feodarie, alias, Feudarie, alias, feudatarie, (feudatarius) is an officer authorized and made by the master of the Court of wards and litteries, by leters patents under the feale of that office. His function is to be prefent with the Escheater at the finding of any office, and to give euidence for the king as well cocerning the valew, as the tenure, and also to survey the land of the ward, after the office found, and to rate it. He is also to affigne the kings widowes their dowers and to receive all the rents of the wards lands, with in his circuit, and to answer them to the Receiver of the court of wardes and liveries. This officer is mentioned anno 32. H. 8. cap. 46.

Ferdfare, significat quietantiam eundi in exercitum. Fleta libr. pri. cap. 47.

Ferdwit, significat quietantiam murdri in exercitu. Fleta libr.trim.

cap. 47.

Ferm (firma) commeth of the French (Ferme. i.coloma, villa, pradium,) and fignifieth with vs, house or land, or both, taken by Indenture of leafe, or leafe parol. It may likewise not vnaptly be coniectured, that both the French and English word came from the Latine (firmus) for

locare

(locare ad firmum) I find formtime to fignifie with others, as much as (to fet or let to farme') with vs. The reason whereof may be in respect of the sure hould they have above tenents at will.v.vocabul. utrinfque suris. verbo Affli-Etus. The authour of the new Termes of lawe, deriueth this word from the Saxon (feormian) which fignifieth to feed or yeeld victuall. For in auncient time the refernations were as well in victuals as money, which I leave to the judgemet of the Reader. How many wayes ferme is take, see Plowden. casu Wrothesley. fol. 195. 4.6.

Feudarie. See Feodarie.

Fieri facias, is a writ iudiciall, that lyeth at all times within the yeare and day, for him that hath recouered in an action of debt or dammages, to the Shyreeue, to commaund him to leuie the debt or the dammages of his goods, against whome the recouerie was had. This writ hath beginning from Westm. 2.cap. 18 anno 13. Ed. 1. See old nat. br. fol. 152. See great diversitie thereof in the Table of the Register undiciall, verbo. Fieri facias.

Fifteenth (Decimaguinta) is a tribute, or imposition of mony laide upon enery city, borough, and other towne through the realme, not by the polle, or upon

this or that man, but in general. ypon the whole city or towne; so called, because it amounteth to one fifteenth parte of that. which the city or towne hath bene valued at of ould. This is now a dayes imposed by parlament: and every towne through the realme, great or leffe, knoweth what a fiftenth for themselues doth amount vnto, because it is perpetuall: whereas the fubfidie, which is raifed of every particular mans lands or goods, must needs be vnccreaine, because the estate of enery seuerall man is so ticklish and vncertaine. And in that regard am I driven to thinke that this fifteenth is a rate aunciently laide vpon euery towne, according to the land or circuit belonging vnto it. whereof M. Camden hath many mentions in his Britannia. In Itead of the rest take a few e page. 168. of Wels in Somerset thire he writeth thus. Quo tempore, ut testatur cenqualis Anglia liber, Episcopus ipsum oppidum tenuit, quod pro quinquagint a bidis geldauit: And pag. 171. of Bathe. Geldabat provigintibs dis, quando Schira geldabat. thirdly,pa.181. of ould Sarifbury thus: pro quinquaginta bidis geldabat. and these rates were taken out of Domes day in the Eschequer. so that this seemed in ould time, to be a yearely tribute in certainty, whereas now, though the rate be certaine, certaine, yet it is not leuied but by Parlament. See Taske, see Quinsse me.

Filazer (Filazarius) commeth of the french (Filace, i. filum, filacium) it is an officer in the common plees, whereof there be 14. in number: they make out all originall proces, as well reall as perfonall and mixt: and in actions meerely personall, where the defendants be returned or fommoned, there goeth out the diffresse infinite vntill apparence. If he be returned Nibil, then proces of Capias insinite, if the plaintife will, or after the third Capias. the plaintife may goe to the Exigenter of the Shire, where his originall is grounded, and have an Exigent and proclamation made: And also the Filazer maketh foorth all writs of viewe in causes, where the view is prayed: he is also allowed to enter the imparlance, or the generall issue in common actions, where apparence is made with him, and also judgement by confession in any of them before issue be ioyned, and to make out writs of execution thereupon. But although they entred the iffue : yet the protonotarie must enter the judge. ment, if it be after verdict. They also make writs of Superfedens, in case where the defendant appearethin their offices, after the Capias awarded.

Filttale. See Sothale.

File (filacium) is a threed or wyer, whereon writs, or other exhibits in courts, are fastened for the more safe keeping of them.

Finders. anno 18. Ed. 3. stat.1. cap. vnico.anno 14. R. 2.cap.10. sceme to be all one with those, which in these dayes we call searchers.

Fine (finis) commeth of the French (fin. i. finis) and hath diuers applications in our commo lawe: sometime being vsed for a formall or ceremonious conuevance of lands or tenements, or (as West faith, titulo Fines. fett. 25.) of any thing inheritable, being in effe tempore finis, to the end to cut off all controuerfies. West parte 2. symb. seit. 1. defineth a fine in this fignification: couenants made before Iustices, and entred of Record. And out of Glanvile thus lib. 8. cap. 1.Finis est amicabilis compositio & finalis concordia, ex consensu és licentia Domini Regis, vel eius Iusticiariorum. And lib. 9. cap. 3. Talis concordia finalis dicitur, eo quod finem imponit negotio, adeo ut neutra pars litigantium ab eo de catero poterit recedere. And out of Bracton, lib. 5. tract. 5. cap. 28. num. 7. 1hus: Finis ideo dicitur finalis concordia, quia imponit firem litibus, co of exceptio peremptoria. The authour of Ff 2 the

the new termes of lawe, defineth it to be a finall agreement had betweene persons concerning any land or rent, or other thing, whereof any fuite or writ is betweene them hanging in any court. See the new booke of Entries, verbo Fines. This fine is of fo high a nature, that Bracton lib. 2. cap. 7. num. 2. hath thefe words of it. Item immediate partinet ad Regem querela finis facte in curia Domini Regis, & non abservate. Et est ratio, quia nemo potest fineminterpretari nisi ipse Rex, in cuius curia fines fiunt. Sce also anno 27. Ed. prim. stat. prim. cap. prim. The Civilians vould call this folemne contract transactionem indicialem de re immobili, because it hath all the properties of a transaction, if it be considered in his originall vie. v. Wesemb. parat. titulo de transact. For it appeareth by the writers of the common lawe aboue named, that it is nothing but a composition or concord acknowledged and recorded before a competent ludge, touching some heredirament or thing immoueable, that earst was in controuerfie betweene those, that be parties to the same concord: and that for the better credit of the transaction, being by imputation made in the prefence of the king, because it is levied in his Court: and therefore doth it bind women couert being par. ries, and others whom ordinarily the lawe disableth to transact, onely for this reafon, that all prefumption of deceipt or enill meaning is excluded, where the king is print to the acte. But difcourse of wir and reason, hath in time wrought other vies of this concord, which in the beginning was but one: as namely, to fecure the title that any man bath in his possession against all men : to cut off intayles, and with more certaintie to paffe the interest or the title of any land or tenement, though not controuerted, to whome we thinke good, either for yeares or in fee. In fo much that the passing of a fine, in most cases, now is it but mera fictio inris, alluding to the vie for the which it was invented, and supposing a doubt or controuerfie, where in truth none is: and fo not onely to worke a present prescription against the parties to the concord or fine, and their heires, but within fiue yeares against all others, not expresly excepted (if it be levied upon good consideration, and without Couin) as women couert, persons vnder 21. yeares, or prisoners, or such as be out of the realme at the time when it was acknowledged.

ledged. Touching this mater, fee the statutes. anno 1. Rich. 3. cap. 7 anno 4. H. 7. cap. 24. anno 22. H. 8. cap. 36. & anno 31. Elizab.ca. 2. This fine bath in it five effentiall parts: the originall writ taken out against the conizour : the kings!:cence giuing the parties libertie to accord, for the which he hath a fine called the Kings filuer, being accompted a part of the Crownes reuenew. Thirdly, the concord it felfe, which thus beginneth: Et est concordia talis, &c. Fourthly, the note of the fine, which is an abstract of the original concord, and beginneth in this maner: Sc. Inter R. querentem. & S. & E. vxorem eius, deforciantes, &c. Fifthly, the foot of the fine, which beginneth thus: Hac est finalis concordia facta in Curia domini Regis, apud Westm. à die Pascha in quindecim dies, anno &c. So as the foote of the fine includeth all, containing the day, yeare, and place, and before what Iustice the concord was made. Coke vo. 6. cafa Teye. fol. 38. & 39. This fine is either fingle or double: A fingle fine, is that by which nothing is graunted or rendred backe againe by the Cognizecte to the Cognizours, or any of them. A double fine containeth a graunt and render backe againe, either of some rent, common, or other thing, out of the land, or of the land it

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felfe, to all or some of the Cognizours, for fome cleare, limiting thereby many times Remainders to ffraungers, which be not named in the writ of couenant. West vbi supra, sect. 21. Againe, a fine is of the effect, devided into a fine executed, and a fine executory. A fine executed is fuch a fine, as of his owne force giveth a present possession (at the least in law) vnto the Cognizee, fo that he needeth no writ of (Habere facias (eisinam) for the execution of the same, but may enter; of which fort is a fine (fur cognizance de droit come ceo que il ad de son done) that is vpon acknowledgement, that the thing mentioned in the concord be ins ipsius cognizati, vt illa que idem babet de dono Cognitoris. West. sect. 51. K. and the reason of this feemeth to be, because this fine, passeth by way of clease of that thing, which the cognizee hath already (at the least by supposition) by vertue of a former gift of the cognizour. Cokes reports li. 3. the case of fines fo. 89. b. which is, in very deed, the furest fine of all. Fines executorie be fuch, as of their owne force doe not execute the possession in the Cognizcese, as fines fur cognizan. ce de droit tamum. fines sur done, graunt, release, confirmation, or render. For if such fines be not lenied, or such render made vnto Ff 3 them,

them, that be in possession at the time of the fines leuicd, the cognizees must needs frew writs of (Habere facius feismam) according to their feuerall cafes, ofor the obtaining of their possessions, except at the leuving of lach executory fines, the parties, vnto whom the estate is by them limited, be in possession of the lands passed thereby: for in this case such fines doe inure by way of extinguishment of right, not als tering the estate or possession of the Cognizee, but perchaunce bettring it. West. vbi supra, sect. 20.

Touching the forme of these fines, it is to be confidered vpon what writ or action the concord is to be made, and that is, most commonly, vpon a writ of couenant: and then first there must passe a paire of indentures betweene the Cognizour and Cognizee, whereby the Cognizour covenanteth with the cognizet, to passe a fine vnto him, of such or such things by a day set down. And thele indentures, as they are first in this proceeding, so are they saide to lead the fine; vpon this couenant, the writ of couenant is brought by the Cognizee against the cognizour, who therevpon yeeldeth to passe the fine before the ludge, and fo the acknowledgement being recorded, the cognizour and his heires are preferrly concluded,

and all straungers not excepted, after fine yeares once patied. If the writ wherevpon the fine is grounded, be not a writ of couenaunt, but of warrantia charta, or a writ of right, or a writ of mela, or a writ of custome and feruices (for of all these fines may al-To be founded. (West. vbi Supra. feet: 23.) then this forme is obserued: the writ is serued ypon the party that is to acknowledge the fine, and then he appearing doth accordingly: See Dier, fo.

179.nu. 46.

This word (fine) sometime fignificth a fumme of money, paide for an Income to landsor tenements let by leafe : sometime an amends, pecuniarie punishment, or recompence ypon an offence committed against the king and his lawes, or a Lord of a maner . In which case, a man is faid facere finem de transgressione cum Rege, co c Regist. Ind. fol. 25.a. and of the divertity of these fines with other mater worth the learning, fee Cromp. tons Instice of peace, fol. 141.6.143. 144. and Lamberds Enenaroba libro.4.ca 16.pa.555. But in all these divertities of wies, it bath but one fignification; and that is a finall conclusion or ende of differences betweene paries. And in this last sence, wherein it is vied for the ending and remission of an offence, Bracken

hath

hath it li. 2. ca. 15. nn. 8. speaking of a common fine that the Countie payeth to the king, for false iudgemets or other trespasses, which is to be affessed by the Iustices in Eyre before their departure, by the oath of knights and other good men, vpon such as ought to pay it: with whome agreeth the statute anno. 3. Ed. pri.ca. 18. There is also a common sine in le etes. See Kitchin. so. 13. a.v. common sine. See Fleta. 1.1. ca. 48.

Fines pro licentia concordandi, anno 21.H.8.c.1.See Fine.

Fine force, seemeth to come of the french adiective (fin) and the Substantine (force.i.vis) The adiective (fin) significth sometime as much as craftie, wille or subtill, sometime as much as, artificiall, curious, fingular, exact, or perfect as (Rien contrefaiet fin. i. nibil simulatum aut adimitationem alterius expressum, potest ese exuctum, vel ita absolutum, quin reprehensionem vel offensionem incurrat, as is let downe in that worke, truly regal, intituled Ragi-Alkor Swpov.pa. 115 fo that this (fine force) with vs, feemeth to fignifie an absolute necessitie or confireint, not avoidable, and in this fence it is vsed, old. nat. br. ful. 78, and in the statute anno. 35. H. 3 ca. 12. in Perkins Doner. fo. 321. and Plowden. fo. 94. Coke. vo'.6.fo'. III.a.

Fine adnullando levato de tenemento quod fuit de antiquo dominico, is a writ to Iustices, for the disanulling of a fine levied of lands holding in auncient demesn, to the prejudice of the Lord: Register originall.fol. 15.6.

Fine capiendo pro terris, & c. is a writlying for one, that vpon conviction by a lary having his lands and goods taken into the kings hand, and his body committed to prison, obtaineth fauour for a summe of money & c. to be remitted his imprisonment, and his lands and goods to be redeliuerd vnto him. Register.orig. fo. 132.a.

Fine levands de tenementis tentis Rege in capite, & c. is a writ directed to the Instices of the comon plees, whereby to licence them to admit of a fine for the sale of land holding in capue, Regist. originall, fol. 167.a.

Fine non capiendo propulchre placitando, is a writ to inhibit officers of courts, to take fines for faire pleading, Register original fol. 179. See Beau pleder.

Fane pro redisseisma capienda & e. is a writ, that lieth for the release of one laid in prison for a redisseism, vpon a reasonable sine. Register. original fol. 222.

Finarie. See Blomarie.

Finours of gold and filner, be those that purific and part those metals from other courser, by

fire

fire and water. anno.4 H.7.ca.2. They be also called parters in the same place, sometime de-

parters.

Fireboote, for the composition looke Hayboote. It signifies allowance or Estovers of woods, to maintaine competent fire for the vse of the tenent.

First fruites (primitie) are the profits of every spirituall living for one yeare, giuen in auncient time to the Pope throughout all Cristendome: but by the statute anno 26.H.8.cap. 31 translated to the Prince, for the ordring wherof there was a court erected, an. 22.H.8 ca.47. but this court was dissolucd.anno.pri.Mar.sess.2. ca. 10. & fithe ice that time, though those profits be reduced againe to the crowne, by the flatute anno 1. Eliz.ca.4.yet was the court neuerrestored, but all maters therein wont to be handled, were transferred to the Exchequer. See Annats.

Fishgarthe, anno 23. H.S.ca. 18.

Fitche, See furre.

Fitzherberd, was a famous lawyer in the daies of King Henry the eight, and was chiefe Infice of the common plees, he wrot two worthie bookes, one an abridgement of the common lawes, another intituled de Natura brevium.

Fledwit, commeth of the Saxon word (Fled) that is a fu-

gitiue, & wir, which some make but a termination, signissing nothing of it selfe: how be it others say, it signisseth a reprehen sion, censure, or correction: It signisseth in our auncient lawe, a discharge or freedome from americaments, when one having been an outlawed sugitive commeth to the peace of our Lord the King, of his owne accord. Raspellicanced: New termes of lawe See Bloodwit, and Childwit: See Fletwit.

Fleete (Fleta) is a famous prifon in London, so called (as it seemeth) of the river, vpon the side whereof it standeth, Camden Britannia, pag. 317. Vnto this none are vivally committed, but for contempt to the king and his lawes, or vpon absolute commaundemet of the king, or some of his courts, or lastly vpo debt, when men are vnable, or vnwilling to satisfie their creditours.

Flemesuit or rather (Flehenswit) commeth of the Saxon word (Flean) which is a contract of (Flegen) that is, to flie away. It fignifieth with our lawyers, a libertie or charter, whereby to chalenge the catel or americments of your man a sugitive: Rastall Exposition of words. See Bloodwit. Fleta written this word two other waies, as (Flemenessfreone or Flemesfreicthe, and interpretecthit, habere catalla fugitivo-

rum.ls.1.ca.47.

Fleta, is a feigned name of a learned lawyer, that writing a booke of the common lawes of England and other antiquities in the Fleete, termed it thereof Fleta: He seemeth to have lived in Ed. the 2.time and Edw. the 3. idem, li.1.ca.20.8.qui ceperint. li. 2. ca.66.8.ite m quod nullus.

Fletwit, alias Fredwit. Skene de verborum significatione. verb. Melletum. saith, that (Flichtwit) is a libertie to courts, and to take vp the amercements pro melletis. he giueth thereaso because (Flicht) is called Fliting in french (Melle) which sometime is conjoyned with hand-strookes: And in some bookes Placitum de melletis, is called the moote or plee of beating or striking.

Flight See Finer.

Florences, anno 1. R. 3. ca. 8. a kinde of cloth fo called.

Flotsen alias (Flotzam) is a word proper to the scase, signifing any goods that by shipwrecke be lost, and lie floting or swimming upon the toppe of the water, which with letsen and lagon and shares be given to the Lord Admirall, by his leters patents. Letsen is a thing cast out of the shippe being in daunger of wrecke, and beaten to the shore by the waters, or cast on

the shore by the marriners. Coke vol. 6. fo. 106. a. Lagon alias Lagamvel Ligan, is that which lyeth in the bottome of the sea, Coke ibi. Shares are goods due to more by proportion.

Foder (fodrum) signissisth in our English tongue, a course kinde of meate for horses and other catell. But among the Feudists, it is vsed for a prerogative that the prince hath, to be provided of corn and other meate for his horses by his subjects towards his wars, or other expeditions. Arnoldus Clapmarius. de arcanis imperii.lib. 1.ca. 11. And reade Hotoman de verbis feudalibus. litera.F.

Folgheres, or rather Folgers, be folowers, if we interpret the word according to the true fignification: Bratton faith it fignifieth, eos qui alii deservant. lib. 3.

tract.2.cap.10.

Folkmoote, is a Saxon word, compounded of Folk is populus & Gemettan.i.convenire. It fignifieth (as M. Lamberd faith in his explication of Saxon words, verbo (Conventus) two kind of Courts, one nowe called the countie court the other called the Shyrecues turne: This word is still in vse among the Londoners, and fignifieth celebrem ex omni civitate conventum: Stowe in his Survey of London. but M. Manwood in his first part of forest lawes, Gg 1

lawes. pag. 111. hath these words. Folkemore is the court holden in London, wherein all the folke and people of the citie did complaine on the Mayor and the Aldermen, for misgouernment within the citie.

Forbarre, is for euer to depriue.

an.9. Ric. 2.ca. 2.

Force (Forcia) is a french word, fignifing (vim, nervofitatem, fortitudinem, virtutem) in our common lawe, it is most vsually applied to the euill part, and fignifieth vnlawfull violence. West thus defineth it: Force is an offence, by which violence is vied to things or persons. parte 2. symbol. titulo. Inditements . sect. 65 . where also he divideth it thus: Force is either fimple or compound. Simple is that which is fo committed, that it hath no other crime adroyned vnto it; as if one by force doe onely enter into an other mans poffession, without doing any other vnlawfull act there. Mixt force, is that violence, which is committed with such a fact, as of it selfe onely, is criminall; as if any by force enter into another mans possession, and kill a man, or ravish a woman there, &c. he farder diuideth it into true force, and force after a fort, and fo proceedeth to divers other braunches worth the reading, as forcible entry, forcible deteining, vnlawfull affembly, Romtes, Riots, Rebellions, Gc.

Forcible deteining or withholding of possession, is a violent act of resistance by strong hand of men weaponed with harnes, or other action of seare, in the same place or else where, by which the lawfull entrie of Iustices or others is barred or hindred. West parte 2. Symbol. titulo Inditements, sett. 65.M. of this see Cromptons Iustice of peace, f. 58.b &c. vs. 193, ad63.

Forcible entrie (Ingressus manu fortifactus) is a violent actuall entrie into an house or land,&c. or taking a distresse of any perfon, weaponed, whither he offer violence or feare of hurt to any there, or furiously drine any out of the possession thereof: West parte 2 symbol. titulo Inditements, sect. 65.L. of this fee Cromptons Instice of peace, fol. 58.b. 59. 6c. vfg; 62. It is also ysed for a wnt grounded vpon the statute. anno 8.H.6.ca. 9. whereof reade Fitz. nat.br.at large, fol. 248. See the newe booke of Entries, verbo Forcible Entrie, see Lamb. definitio in certen cases. Eiren.l. 2.6.4.p. 145.

Forein (Forinfecus) commeth of the french (Forain.i.exterus, externus) it is vsed adiectively in our common lawe, and ioyned with divers substantives in sences not vnworthy the exposition as Forein mater, that is mater that able in another countie, pl. cor

fo

fo. 154. or mater done in another countie. Kitchin. fol. 126. Foreinpleas forinsecum placitum).i. a refusal of the Judge as incompetent, because the mater in hand was not within his precincts, Kitchin fol 75.65 anno 4.H.S. ca. 2.6 anno 22.eiusdem.ca. 2.6 14. Forein aunswer, that is, such an answer, as is not triable in the countie where it is made. anno 15.H.6.ca. 5. Forein service (forin-(ecum (ervitium) that is such fervice, whereby a meane Lord holdeth ouer of another, without the compasse of his owne fee. Brooke. titulo Tenures.f.251. na. 12.6 28.6 Kuchin, fol. 209. or elfe that which a tenent performeth, either to his owne Lord, or to the Lord paramount out of the fee. For of these seruices, Bracton speaketh thus, lib. 2.cap.16.nu.7. Item sunt quedam servitia, que dicuntur forinseca, quamvis sunt in charta de feoffamento expressa & nominata: & que ideo dici possunt forinseca, quia pertinent ad Dominum Regem, & non ad dominum capitalem, nisi cum in propria persona profectus fuerit in Ceruitio: vel nisi cum pro seruitio suo satisfecerit domino Regi quocung; modo, & funt in certis temporibus, cum casus & necessitas evenerit, & varia habent nomma & diuersa: Quandog; enim nominantur forir [eca, large sumpto vocabulo, quoad seruitium domini Regis, quandog;

scutagium, quandoq; seruitium domini Regis, & ideo forinsecum dicipotest, quia sit & capitur foris, sine extra seruitium quod sit Domino capitali.v. Broke Tenures 28.95. Forein seruice, seemeth to be knights seruice or Escuage vncertaine. Perkins Reservations 650. Forein attachement (Attachiamentum sorinsecum) is an attachement of foriners goods, found within a libertie or citie, for the satisfaction of some citizen, to whome the said foriner oweth money.

Forein Apposer (forinsecarum oppositor) is an officer in the exchequer, to whom all shyrecues and baylifes doe repaire, hy him to be opposed of their greene waxe, and from thence draweth downe a charge vpon the shyrecue and baylife to the clerk

of the pipe.

Forest (Foresta) is a french word, signishing a great or vast wood. Lieu forestier & saunage: locus syluestris & saltuosus. The writers vpon the common law define it thus: Foresta est locus vbi fere inhabitant vel includuntur. glosm ca.cum dilecti. extra. de donatio. & Felinus in ca. Rodolphus. versu, quid autem Foresta. extra de rescriptis. speaketh to the same effect. Some other writers doe say, it is called foresta, quasi ferarum statio, vel tuta mansio ferarum. But as it is taken with vs, M.

Gg 2 Man-

Manw in his fecod part of forest lawes, cap. I.nu. I. thus defineth ir : A Forest is a certaine territorie of wooddy grounds & fruitfull pastures, priviledged for wild beafts, and foules of forest, chace, and warren, to rest and abide in . in the fafe protection of the King, for his princely delight and pleasure : which terrioritie of ground fo priuiledged, is meered and bounded with vuremoneable markes, meeres, and Boundaries, either knowne by mater of record, or else prescription, and also replenished with wild beasts of Venerie, or chase, and with great coverts of vert, for the fuccour of the faid wild beaffs, to have their aboad in: for the preservation & continuance of which faid place, togither with the vert and venison, there are certaine particular lawes, priviledges, and officers, belonging to the same, meete for that purpose, that are onely proper vnto a forest, and not to any other place. The fame definiton he hath parte 1. pag. 139. which though it have many superfluities, yet it well expresseth the nature of the thing, especially the explication adioyned, which there is fet downe by the faid author in both places in his first part pag. 16. where he fetcheth a forest from fuch overgrowne antiquitie, alledging for it the fecond booke of Kings, ca. 2. ver.

24. & ca. 19. verf. 23. and the 104. pfalme verf. 20. the 131. ver. 6. he taketh licence to sport himselfe. for though our english translation have the word forest, to expresse the vastness of the desert, yet if we looke to the original I diome, we shall finde no more reason to call those places forests, the either chases or parks.

The maner of making foreffs, as the fame author well ferteth downe, parte. I.pag. 142. is this. The king sendeth out his commissió vnder the broad seale of England, directed to certaine discrecte persos, for the view, perrambulation, meering & bounding of the place, that he mindeth to afforest; which returned into the chauncerie, proclamation is made throughout all the Shire, where the ground lieth, that none shal hunt or chace any maner of wilde bests within that precinct, without the kings fpeciall licence, after which he appointeth ordinances, lawes, and officers, sit for the preservation of the vert and venifon; and fo becommeth this a forest by mater of record. The properties of a forest are these in speciall, first, a forest, as it is truly and Arietly taken, cannot be in the hands of any but the king: the reason is given by M. Manwood, because none hath power to graunt commission to a Justice in Eirefor the forest, but the king. parte.t.

pag. 87. The second propertie, be the courts, as the Iuftice scare every three years, the Swainemoote thrice every yeare: Idem eodem pag. 90. of parte 2.ca. 1. nu. 4. 6 5. and the attachement. once every fortie daies. Idem eod. par. 92. The third propertie may be the officers belonging vnto it, for the preservation of the vert and venison, as first the Juflices of the forest, the warden or keeper, the verders, the foristers, Agistours, Regarders, Bailiffes, Bedels and fuch like, which you may fee in their places. See Manwood part. 2.ca. 1.nu. 4.6 5. But the cheife propertie of a forest, both by M. Manwood. parte 1.pa. 144. and M. Crompton pag. 146. is the Swainmote, which (as they both agree) is no lesse incident vnto it, then the court of Pyepowders to a faire. Other courts and offices are not fo requifite, in those forests that are in the hands of subjects, because they be not truly forests: but if this faile, then is there no thing form of a forest remaining, but it is turned into the nature of a penis chace. See Chace. I reade of thus cial many foresis in England. The and forest of Windsour in Berkshire: ehm Cambd. Britan.pag. 213. of Pickee reil ring. Crompton 190. of Shirmood ind, wdem fol. 202. of Englewood in Cumsumberland. anno. 4. H.7.ca.6.6 in En Crompton fol. 42. of Lancaster. Igiddem.fol.196. of Wolemore. Stowes

Annals. pag. 462. of Gillingham Idem. pag. 113. of Knarefborom.anno.21. H.8. ca. 17. of Waltham. Cama. pag. 328. of Breden. Idem, pao. 176. of Whicharte Idam, pag. 150. of Wierldale. Idempag. 589 and Lornfedallibidem of Deane. Idem. pag. 266. 60 & anno 8. H.6. ca. 27. & anno 19. H.7. cap. 8. of Saint Leonards in Southfex. Manwood parte. 1.pa. 144. of Waybridge & Sapler. Idem. eodem. pa. 63. of Whitvey. pag. 81. of Fekenham, Camd. pa 441. of Rockingham. Idem pag. 396. Forest de la mer. Idem, pag. 467. of Huckstowe Idem pa. 456. of Hage. Manwood part. 1 pag. 144. of Cantfelly, eadem pag. of Ashdowne in the county of Suffex, anno. 37. H. 8. ca. 16. Forests of Whitti! wood and Swasie in the countie of Northampton. anno 33.H.8.ca. 38.of Fronselwood in com. Somerset. Cooke li. 2. Cromm.case.f. 71. b. I heare also of the forest of Exmere, in Denonshire. There may be more which he that listerh, may looke for.

Forester (forestarius) is a sworn officer of the Forest, appointed by the Kings letters patents, to walke the forest both earely and late, watching both the vert and venison, attaching and presenting all trespassers against them, within their owne bayliwicke or walke whose oath you may see in Crompton.

Gg 3

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fol. 201. And though these lecers patents be ordinarily graunted, but quam diu bene se gesserint, yet some haue this graunt to the and their heires, and thereby are called Foristers or Fosters in fee. Idem, fol. 157. & 159. Et Mannood parte prima. pag. 220. whome in Latine Crompton calleth Foristarium feudi. fol. 175.

Foreindger, (forifudicatio) fignifieth in the common lawe, a judgement, whereby a man is depriued, or put by the thing in question. It seemeth to bee compounded of (fors. i. præter) & (inger. i. inducare.) Bracton lib. 4. tract. 3. cap. 5. hath thefe words: Et non permittas quod A. capitalis dominus fendi illius, habeat custodiam haredis, coc. quia in Curia nostra forisindicatur de custodia, &c. So doth Kitchin vseit. fol. 209. and old nat. bre. fcl.44. co 81. and the statute. anno 5. Ed. 3. cap. 9. and anno 21. R. 2. cap. 12. Forindicatus with authors of other nations fignifieth as much as (banished) or as (deportaeus) in the auncient Romaine lawe, as appeareth by Vincentius de Franchis, descis. 102. Matheus de Afflictis. lib. 3. feudorum. Rub. 31. pag. 625.

Foregoers be pourveyours, going before the king or queene, being in progresse, to provide for them, anno 36.Ed. 3. cap. 5.

Ferfeiture, (forisfactura) com-

meth of the French word (for. faich. i. Tcelus) but fignifieth in our language, rather the effect of transgressing a penall lawe, then the transgression it selfe:as forfeiture of Escheates. anno 25. Ed. 3. cap. 2. Statut. de Proditionibus. Goods confiscate, and goods forfeited differ. Stammf. pl.cor.fol. 186. where those seeme to be forfeited, that have a knowne owner, hauing committed any thing whereby he hath lost his goods; and those confiscate, that are disavowed by an offendour, as not his owne, nor claymed by any other. I thinke rather, that forfeiture is more generall, and confiscation particular, to fuch as forfeit onely to the Princes Exchequer. Reade the whole chapter. lib. 3.cap. 24. Full forfeiture (plena forisfactura) otherwise called (plena vita) is forfeiture of life and member, and all elfe that a man hath. Manwood parte prim. pag. 341. The Canon Lawyers vie also this word. For forisfact a sunt pecuniaria pana delinquentium. Glos. in cap. Prasbyteri, extra. de panis.

Forfesture of mariage, (forufathura maritagii) is a writ lying against him, who houlding by knights seruice, and being vnder age and vnmaried, resusch her, whome the Lord offereth him, without his disparagement, and tnarieth another. Fitzh. nat. br. fol. 141.H.I. K. L. Register orig. fol.

Forfeng, quietantiam prioris prifa designat: in hoc enim delinquunt Burgenses Londonenses, cum prisas suis ante prisas regis faciunt. Fleta lib. 1. cap. 47.

Forgerie. See here next following, Forger of false deeds.

Forger of false deedes, commeth of the french (Forger).i. accudere, fabricare, conflure, to beate one an anvile, to fashion. to bring into shape, and fignifieth in our common law, either him that fraudulently maketh and publisheth false writings, to the prejudice of any mans right, or elfe the writ that lyeth against him, that committeth this offence. Fitzh. nat. br. fol. 96. B. C. calleth it a writ of deceite. See Tearmes of law, verbo Forger. and West's Simbol. parte. 2. Indictments, fectio. 66. See the new booke of Entries. verbo Forger. de faits. This is a branch of that which the civilians call crimen falsi: Nam falsarius est, qui decipiendi causa scripta publica falsificat. Speculator. de crimine falsi. Falsi crimen proprie dicitur, quod viilitatis prinate caufa factum est. Connanus li. 5. ca. 7. nus. 4. Ad effe falsitatis tria requiruntur: matatio veritatis, do'us, & guod alteri sit nocivum. Quorum si alterum desit, falsitas non est punibilis. Hostiensis, & Azo in suis summis.

Forister. See Foxester.

Formdon (Breve formatum donationis) is a writ that lyeth for him, that hath right to any lands or tenements by vertue of any entayle, growing from the flatute of Westm. 2. cap. 1. It lyeth in three forts, and accordingly is called forma donationis, or formdon in the descender: formdon in the reverter, or formdon in the remainder. Formdon in the descender lyeth for the recouery of lands,&c. giuen to one and the heyres of his bodie, or to a man and his wife, and the heyres of their two bodies, or to a man and his wife being cofin to the donour, in franke mariage, and afterward alienated by the Donce. For after his decease his heyre shall have this writ against the tenent or alienee. Fitz. nat. br. fol. 211. He maketh three forts of this formdon in the defcender: The first is, in the maner now expressed: the second is, for the heire of a coparcener, that alienateth and dieth. fol. 214 The third is called by him (In simultenuit) fol. 216. which lyeth for a coparcener or heire in Gauelkind, before partition against him, to whome the other coparcener or heire hath alienated and is dead. Formdon in the reuerter, lyeth for the donour or his heires, where land entayled to certaine and their issue, with condicondition for want of such issue to revert to the donour and his heires, against him to whom the Donce alienateth, after the issue extinct, to which it was entayled. Fitzb. nat. br. fol . 219. Formdon in the remainder lyeth, where a man giueth landes in tayle, the remainder to another in tayle, and afterward the former tenent in tayle dieth without issue of his bodie, and a stranger abateth, then he in the remainder shall have this writ. Fitz nat. br. fol. 217. See the Register original. fol. 238. 242. 243. of this see the new booke of Entries, verb. Formdon.

Forsechoke, seemeth to signifie originally as much as for faken in our moderne language, or (derelictum) with the Romaines. It is especially vsed in one of our statutes, for land or tenements feised by the Lord, for want of feruices due from the tenent; and fo quietly held and possessed beyond the yeare and day. As if we should say, that the tenent which feeing his land or tenements taken into the Lords hand, and possessed so long, taketh not the course appointed by lawe to recouer them, doth in due presumption of lawe difavow or forfake whatfoeuer right he hath vnto them. See the statute anno 10. Ed. 1. cap. vni-

Forstall, is to be quit of amerciaments and catels arrested within your land, and the amerciaments thereof comming. New termes of lawe.

Forstalling (forstallatio) is partly french, for (Estaller) is in that tongue, as much as (merces exponere, expedire, explicare) or to thew wares in a market or faire. It fignifieth in our common law. the buying or bargaining for any victuals or wares comming to be fould toward any faire or market, or from beyond the feas toward any city, port, hauen, creeke, or roade of this realme. and before the same be there.an. no. 51. H. 3. Stat. 6. West. parte 2. Simbol. titulo indictments. fect. 64. Forstaller, in Cromptons Iurisdiction, fol. 153. is vied for stopping of a deere broken out of the forest, from returning home againe, or laying betweene him and the forest, in the way that he is to returne: See Regratours and Engrossers. See Cromptons Instice of peace. fol. 69. a. The author of the new terms of law defineth it thus. Forstalling (Forstallamentum) is the buying of corne, cattell, or other merchandies by the way, as it commeth toward the faire or market to be fould, to the intent to fell the same againe at a more high and deere price. Flera faith thus of it, figmficat obtrusionem vie vel impedi-

mentum

mentum transitus & fuga auerio-

rum, li. 1. cap. 47.

Eortescue, was a learned Lawyer, & Lord Chauncelor in Henry the 6. dayes: who writ a booke in the commendation of our common lawes.

Fortlet (forteletum) commeth nere the french (fortelet.i. valenticulus forticulus) and fignifieth in our common lawe, a place of some strength. old nat. br. fol. 45. This in other countries 15 written (fortalitium) and fignifieth (castrum.) Scraderus selett. & prastabil. quest. §. 12. nu. 7. & 8.

Fother, is a weight of twenty hundred, which is a waine or cart loade. Speight in his Annot.

vpon Chamcer.

Fourche (Afforciare) scemeth to come of the french, (fourcher. i. titubare liugua) and fignifieth in our common lawe, a putting off, prolonging, or delay of an action. And it appearethno vnpleafant metaphor: for as by flammering we draw out our speech, not deliuering that we have to fay in ordinary time, fo by fourthing we prolong a fuite that might be ended in a thorter space. To fourth by esloine. Westm. 1. cap. 24. anno 3. Edi prim. where you have words to this effect: Coparceners, Iointtenants, and Tenents in common, may not fourch by effoine to effoine seuerally, but have only one essoine, as one sole tenent may have. And anno 6. Ed. 1.ca. 10. you have it vsed in like sort.

Fourgeld, is a word compounded of these two German words (fons. i. pes, and (gyldan. i. solvere) and it signifies the an americant for not cutting out the balles of great dogges seet in the forest. See Expeditate. And to be quit of footegeld is a priviledge to keepe dogges within the forest, villawed, without punishment or controlment. Cromptons Iurisdit. fol. 197. Manwood parte pri. of his forest lawes, pag. 86.

Fowles of warren. See War-

ren

Founder, is he that melteth mettall, and maketh any thing of it, by casting it into a mold, &c. anno 17. Rich. 2. cap. 1. deriued of the verbe (fundere) to

powre.

commeth of the french (franchise) sommeth of the french (franchise) so signifing: it is taken with vs for a priviledge, or an exemption from ordinarie jurisdiction, and sometime an immunitie from tribute. It is either personal or reall. Cromp. Iurisd. fol. 141. that is belonging to a person immediatly, or else by meanes of this or that place, or court of immunitie, whereof he is either chiefe or a member.

In what particular things franchifes commonly confift, See Britton cap. 19. Franchise royall anno 15. R. 2. cap. 4. & anno 2. H. 5.cap. 7. in fine, seemeth to bee that, where the kings writs runne not:as Chester and Durham, they are called Seignories royall. an. 28. H. 6. cap. 4. The authour of the new Termes of lawe faith. that franches royall is, where the King graunteth to one and his heires, that they shall be quit of tolle or fuch like: See franchise in the new booke of Entries. See Bracton lib. 2. cap. 5. See Sac.

Frank almoine (libera Eleemozyna) in french (frank Ausmone) fignifieth in our common lawe, a tenure or title of lands. Britton cap. 66. nu. c. faith thus of it: Franke almoyne is lands or tenements bestowed vpon God, that is, given to such people, as beflow themselves in the service of God, for pure and perpetuall almes: whence the feoffours or giuers cannot demaund any terrestriall service, so long as the lands.&c. remaine in the handes of the feoffees. With this agreeth the grand custumary of Normandie.cap. 32. Of this you may reade Bracton at large. lib. 2. cap. 5.6 10. See Fitzh.nat. br. fol. 211. See the new booke of Entries. verbo. Franke Almoine. But Britton maketh another kind of this land, &c. which is given in

almes, but not free almes: because the tenents in this are tyed in certain services to the feosfor,

Britton vbi supra.

Frank bank (francus bancus)in true french, (franc hanc) fignifieth, word for word, a free bench or feate: and among our lawe writers, it feemeth to be yfed for copyhold lands, that the wife being espoused a virgin, hath after the decease of her husband forher dower. Kitchin fol. 102. Bracton lib. 4. tract. 6. cap. 12.nn. 2. hath these wordes: Consuerudo est in partibus illis, quod vxores maritorum defunctorum habeant francum bancum suum de terris fockmannorum co tenent nomine dotis. Fuzher, calleth it a custome, whereby in certaine cities the wife shall have her husbands whole lands, &c. for her dower. Nat. br. fol. 150. P. See Plomden casu New is. fol. 413.

Frank chase, (Libera chasea) is a libertie of free chase, whereby all men having ground within that compasse, are prohibited to cut downe wood, or discouer, &c. without the view of the forester, though it be his owne demessee. Cromptons Iurisdictions,

fol. 187.

Frank fee (feudum francum, feu liberum) is by Brooke tit. Demesn. num. 32. thus expressed. That which is in the hand of the King or Lord of any maner,

being

being auncient demesn of the Crowne (viz. the Demeines) is called frank fee, and that which is in the hands of the tenents, is anneient demein onely: see the Register original. fol. 12. a. Whereby it feemeth, that that is frank fee, which a man holdeth at the common lawe to himselfe and his heires, and not by fuch feruice as is required in auncient demesn, according to the custome of the maner. And again, Ifind in the san.e booke, fol. 14. b. anote to this effect, that the lands which were in the handes of king Edward the Saint, at the making of the booke called Doomesday, is auncient demesn: and that all the rest in the realme is called frankfee: with the which note Fitzberb. agreeth, na. br. fol. 161. E. So that all the land in the realme, by this reafon, is either auncient demesn, or frank fee. The new expounder of the lawe termes defineth frank fee, to be a tenure in fee simple, of lands pleadable at the common lawe, and not in auncient de mesn: See Fachineus. lib. 7. cap. 39. who defineth feudum francum effe, pro quo nullum Ceruitium prestatur Domino: With whom agreeth Zasius de feudis parce 12. faying, that therefore it is feudum improprium, quia ab omni servitio liberum.

Frank ferme (Firma libera) is

land or tenement, wherein the nature offce is chaunged by feofment, out of knights service, for certaine yearely scruices, and whence neither homage, wardship, mariage, nor releife may be demaunded, nor any other feruice not contained in the feofment. Britton.ca. 66.nu. 2. see Fee ferme.

Frank law (libera lex) See Cromptons Instice of peace, fol. 1 56. b. where you shall finde what it is, by the contrary. For he that for an offence, as conspiracy, &c. leefeth his franke lawe, is faid to fall into these mischiefs first that he may never be impaneled vppon any jury, or affile, or otherwife vied in testifiing any truth. Next, if he have any thing to doe in the kings court, he must not approch thither in person, but must appoint his attourney. Thirdly, his lands, goods, and chatelsmust be seised into the kings hands: and his lands must be estreaped, his trees rooted vp, and his body committed to prison. For this, the faid authour citeth the booke of Assises fo. 59. Conspiracy. F. 11.24. Ed. 3. fo. 24. See Confriracy.

Frank mariage (liberu maritagiu) is a tenurein taile speciall, growing from the fe words in the gift comprised: Sciant &c.me M. H de W. dedise & concessisse, & presenti charcamea confirmasse I. A. filio

Hh 2

mea

meo & Margeria vxori eius, filia vere T.N. in liberu maruagum vnum me Suagium &c. West parte i. Symbol. li. 2. fest. 303. The effect of which words is that they shall haue the land to them, and the heires of their bodies, and shall doe no fealty to the donour, vntill the fourth degree. See new Terms of law. Glanuile le 7. ca. 18. cf Bracton li. 2. ca. 7. nu. 4. where he divideth maritagium, in liberum & servitio obligatum. See Mariage. Fleta giueth this reason why the heires doe no service vntill the fourth discent, ne donatores vel eorum haredes, per homagureceptionem, a reversione repellantur. And why in the fourth discent and downeward, they shall doe seruice to the donour, quia in quarto gradu vehementer prasumitur, quod terra non est pro defectu haredum donatariorum reversura, libro tertio. ca. 11. in princ.

Frank pledge (Franciplegium) is compounded of (Franci. liber) and (pleige. i. fideussor) and fignifieth in our common law, a pledge or furety for free men. For the auncient custome of England for the preservation of the publique peace, was that every free borne man, at fourteene yeares of age, after Bratton (religious persons, clerks, knights, and their eldest sonnes excepted) should finde suerty for his truth

toward the King and his fubiects, or elle be kept impreson, whereupon a certaine number of neighbours became customably bound one for another, to fee each man of their pledge forthcomming at all times, or to answerethe transgression committed by any broken away. So that who focuer offended, it was forthwith inquired in what pledge he was, and then they of that pledge, either brought him forth within 3 1. daies to his aunswere, or satisfied for his offence. This was called Frank pledge, causa gua supra. and the circuit thereof was called Decenna, bccause it commonly consisted of 10.houshouldes: And enery particular person thus mutually bound for himselfe and his neighbours, was called Decennier, because he was of one Decenna or another: This custome was fo kept, that the shyreeucs, at euery county court, did from time to time take the oaths of yonge ones, as they grew to the age of 14. yeares, and fee, that he were combined in one dozen or another, whereupon this braunch of the shyrceues authority was called vifus Franciplegii, view of frankpledge. See the statute for view of Frankpledge, made anno. 18. Ed. 2. See Decennier, Leete veiw of Frank pledge, and Freoborghe. That this difcipline pline is borowed by vs of the Romane Emperours or rather Lombards, appeareth most manifestly in the second booke of Feuds. ca. 53. vpon which if you reade Hotoman, with those authors that he there recordeth, you will thinke your labour well bestowed. Reade more of this. viz. what articles were wont to be inquired of in this court, in Hornes mirrour of Iustices li. 1. ca. de la veneu des francs pleges, and what these articles were in auncient times, see in Fleta. li. 2. ca.

Fredwit See Fletmit.

Free chapell libera Capella) by some opinion, is a chapell founded within a parish for the feruice of God, by the deuotion and liberalitie of some good man, ouer and about the mother Church, vnto the which it was free for the parishioners, to com or not to come, & edowed with maintenance by the founder, and therevpon called free: 1 haue heard others fay, and more probably, that those only be free chapels, that are of the Kings foundation, and by him exempted from the Inrifdiction of the Ordinarie but the King may licence a subiect to found such a chapell, and by his charter exempt it from the Ordinaries vifitation alfo. That it is called free in respect it is exempted from

the iprissiction of the Diocesan, appeareth by the Register originals. fol. 40. 41. These chapels were all given to the King: with chaunteries anno. 1. Ed. 6. ca. 14. Free chapell of Saint Martin le grand. anno. 3. Eduardi 4. capite quarto. 6 anno. 4. Eduard. quarti ca. 7.

Free hould (liberum tenemetum) is that land or tenement, which a man holdeth in fee, fee taile, or at the least, for terme of life, Bratt. li.2.ca. 9. The newe expounder of the lawe termes faith, that free hold is of 2 forts. Freehould in deede, and freehold in lawe: Freehold in deede, is the reall possession of land or tenements in fee, fee tayle, or for life. Freehould in lawe, is the right that a man bath to such land or tenements before his entry or feifure. I have heard it likewise extended to those offices, which a man holdeth either infee or for terme of life. Britton defineth it to this effect. Frank tenement is a posseision of the soile, or services isfuing out of the foile, which a free man holdeth in fee to him and his heires, or at the least, for tearme of his life, though the soile be charged with free fervices or others. ca. 32. Free hold is sometime taken in opposition to villenage. Bract. li, 4.ca.37. & 38. M. Lamberd (in his ex-Hh 3 pliplication of Saxon words, verbo Terra ex (cripto) faith, that land in the Saxons time was called either Bockland, that is holden by booke or writing: or Felcland, that is holden without writing: The former, he reporteth, was held with farre better conditions, and by the beter fort of tenents, as noble men and gentlemen, being fuch as we nowe call free hould : the later was commonly in the possession of clownes, being that which wee nowe call at the will of the Lord: I finde in the Registeriudiciall.fol. 68. a. and in divers other places, that he which holdeth land ypon an execution of 2 Statute merchant, vntill he be satisfied the debt. tenet vt Isberum tenementum sibi & assignatis fuis. and fol. 73. b. I reade the same of a tenent per elegit; where I thinke the meaning is not, that fuch tenents be freehoulders, bur as freehoulders for the r time, that is vntill they have gathered profits to the value of their debt. Freehoulders in the auncient lawes of Scotland. were called Milites. Skene de verb. fignif. verb. Milites: The D.& Student faith, that the possession of land, after the lawe of England, is called franck tenement, or free bould fol 97. a. Man and an all

Frenchman (Francigena) was wont to be vied for cucie out-

land ih man. Bratton.lib. 3. tratt. 2.cap. 15. See Engleccrie.

Frendwite, vel Infeng, significat quietantiam prioris prise ratione convivii, Pleta li. 1.ca. 47.

Frendles man was wont to be the Saxon word for him, whome we call an outlawe. And the reafon thereof I take to be becamfe he was voon his exclusion from the kings peace and protection, denied all helpe of freinds. after certaine daies. Nam foris. fecet amicos . Bract.li. z. tract. 2.ca. 12.nu.1. whose words are these. Talem vocant Angli(vilaugh) & alio nomine antiquities folet neminari. fc: Frendles min: & sic videtur quod forisfecit amicos: & unde fi quis talem post vilagariam & expulsionem scienter paverit, receptaverit, vel scienter comunicaverit aliquo modo, vel receptanerit, veloccultauerit, eadem pena pemiri debet, qua puniretur velle gatus: ita quod careat omnibus bonis suis & vita, nisi Rox es parcat de sua gratia. Fresh differsin (Frisca disteisma) commeth of the french (Fraiz.i. recens) and (dife-fir .i. pofessione eicere) It seemeth to fignifie in our common law, that diffeilin that a man may feeke to defeate of himselfe, and by his owne power, without the helpe of the king or his judges, Britton. ca.s. & that is such differin as is not aboue 17. daics olde. Bract. li. 4. ca. 5. whome you may reade at large large of this mater, concluding that it is arbitrarie, and so doth Britton ca.65. but ca.43. he seemeth to say, that in one case it is a yeare. See him also ca.44.

Fresh fine, is that which was levied within a yeare past, Westm. 2. cap. 45 an. 13. Ed. 1. Fresh force (Frisca fortia) is a force done within 40. daies, as it feemeth by Fitzb. nat. br. fo!. 7. C. For if a man be diffeised of any lands or tenements, within any city or borough, or deforced fron them after the death of his auncester to whome he is heire: or after the death of his tenent for life or in taile: he may within 40. daies after his title accrued, have a bille out of the chauncerie to the Mayor, &c. See the reft.

Tresh suite (recens insecutio) is fuch a present and earnest following of an offendour, as neuer ceaseth from the time of the offence committed or espied, vntill he be apprehended. And the effect of this, in the pursuite of a felon, is, that the partie perfiewing shall have his goods restored him agine: whereas otherwife they are the kings. Of this see Stawnf.pl.cor.li.z.ca.10.6 12. where you shall finde handled at large, what fuite is to be accounted fresh, and what not. And the same author in his first booke, cap. 27. faith, that fresh

suite may continue for scuen yeres, See Cookes reportes. 1.3. Rige-waies case. Fresh suite, seemeth to be either within the view or without: for M. Mamrood saith, that upon fresh suite within the view, trespassers in the forest may be attached by the officers persiewing them, though without the limits and boundes of the forest. parte 2.ca. 19.nu. 4. fol. 121.

Freoborgh: alias Fridburgh: alias Frithborg (Frideburgum) commeth of two Saxon words (Freo. i. liber, ingenuus) and (borgh.i. fidenustor) or of (Frid. i pax) & (Borgha.i. fron for) This is otherwife called after the French (Franck pledge) the one being in vse in the Saxons time, the other sithence the Conquest: wherefore for the voderstanding of this, reade Franck pledge. That it is all one thing, it appeareth by M. Lamberd in his explication of Saxon words, verbo Centuria and againe in the lawes of King Edward let out by him, fol. 132. in these words: Praterea eft quadam summa & maxima securitas, per quam omnes statu firmissimo sustinentur: viz. vt vnusquisq, stabiliat se sub fideiussionis securitate, quam Angli vocant (Freoborghes) soli tamen Eboracenses, dicunt eandem (Tienmannatale) quod son at latine decem hominum numerum. Hec securitas hoc modo fiebat, quod de omnibus val-

lis totius regni sub decennali sideinssione debebant esse vniners: ita guod si unus ex decem forisfecerit, novem ad rectum eum baberet: quod aufugeret, darctur lege terminus ei 21. dierum: vt qualitus interim & inventus, ad institiam Regis ad. duceretur. & de suo illico restauraret damnum quod fecerat. Etsi ad hoc forisfaceret, de corpore sno iustitia sieret. Sed si infra pradictum terminum inventrinon posset, &c:as in the booke: Braston maketh mention of (Fridburgum. lib. 3. tract. 2. cap. 10. in these words: Archiepiscopi, Episcopi, Comites, & Barones, (5 omnes qui habent Scc, & Sak. Tol, & Team, & huiusmodi libertates, milites suos & proprios servientes, armigeros sc. dapiferos, & pincernas, camerarios, coquos, pistores, sub suo Fridburgo babere debent. Item & isti suos Armigeros, & alios sibi servientes. Quod si cui forisfecerint, ipsi domini su habeant eos adrectum, et si non habuerint, solvant pro eis forisfacturam. Et sic obseruandum erit de omnibus aliis, qui sunt de alicuius manupastu. Out of these words, I learne the reason, why great men were not combined in any ordinarie dozeine, and that is, because they were a sufficient assurance for themselves and for their meniall feruants: no lesse then the tenne were one for another in ordinarie dozeins. See Frank pledge: see Skene de verborum senificatione . verbo. Freiborgh. Fleta writeth this word (frithborgh) and vieth it for the principall man, or at the least, for a man of every dozein. Frithborgh (faith he) eff laudabilis homo testimonii liber vel fervus, per quem omnes iuxtaipsum commorantes firmiori pace sustententur sub stabilitate fideiussionis eius vel alterius per denarium numerum, unde quilibet quasi tlegius alterius: ita quod si unus feloniam fecerit. novem tenentur insum ad standum recto presentare. lib. 1.ca. 47.5. Frithborgh. See Roger Hoveden, parte poster. suorum annal. in Henrico secundo. fol. 245. a.b.

Frier (frater) commeth of the French (frere) there be foure orders reckoned of them. anno 4. H. 4. cap. 17. viz. Minours, Augustines, Preachers, and Carmelites, the foure principall orders, of which the test descend. See in Zechius de rep.ecc. pag. 380 Looke Linwood. titulo de relig.domibus. cap. 1. verb. Sancti An-Ille be apprehended An. A. A. Babasa de al III

Frier observant (frater ibser vans) is an order of Franciscans: for the better understanding of whom, it is to be noted, that of those 4. orders mentioned in the word (Frier,) the Franciscans, are minores tam Observantes quam Conventuales & Capuchini. Zecchus de Repub. Eccl. tract. de regn lar. cap. 2. Their Friers oblervant, you find spoken of anno 25. H. 8. cap. 12. who be called observants, because they are not combined together in any cloyster, covent, or corporation as the Conuentuals are: but only tye themselues to observe the rites of their order, and more strictly then the Conuentuals doe: and vpon a singularitie of zeale, separate themselues from them, living in certaine places, and companies of their owne chusing. And of these you may reade Hospinian. de orig. & progr. Monachatus. fol. 878. cap. 38.

Friperer, is taken from the French (fripier) interpolator, one that fcowreth vp and cleanfeth old apparell to fell againe. This word is vsed for a bastardly kind of broker. anno v. Iaco. cap. 21.

Frithborgh, see Freeborgh. Frahsoken, signifieth surety of

desence, as Saxon saith in the description of England, cap. 12. It seemeth to come of these two Saxon words, frith, or frid, or (fred.) i pax, & (seem. i.guarere.) Fleta tearmeth it frabsokne, vel forsokne, yeelding this reason, Quod significat libertatem habenda franci plegii.

Fuer (fuga) commeth of the French (fuir, i. fugere) though it be a verbe, yet it is yied fub-flantiuely in our common law, and is twofold: fuer in feit, (in fullo) when a man doth apparently and corporally flie, and

fuer in ley, (in lege) when being called in the countie, he appeareth not vntill he be outlawed for this is flight in interpretation of law. Stam nf. pl.cor.lab. 3.c.22.

Fugitimes goods, (bona fugitimorum) be the proper goods of him that flyeth vpon felonie, which after the flight lawfully found, do belong to the king. Coke vol.

6. fol. 109. b.

Furlong, (ferlingum terra) is a quantitie of grounde containing twenty lugs or poles in length, and enery pole 16 foote and a halfe, eight of which furlongs make a mile, anno 35. Fd. 1. cap. 6. It is otherwise the eighth part of an acre. See Acre. In the former fignification the Romanes call it (stadium,) in the later (ingerum.) This measure which wee call a pole, is also called a perch, & differeth in length, according to the custome of the countrey. See Perch.

Furre (furrura) commeth of the French (fourrer. i. pelliculare) to line with skinnes. Of furre I find divers strange kinds in the statute. anno 24. H. 8. cap. 13. as of sables, which is a rich surre of colour betweene blacke and browne, being the skinne of a beast called a Sable, of quantitie betweene a Polecat and an ordinatie cat, and of sashion like a Polecat,

li 1 bred

bred in Ruscia, but most and the best in Tartaria, Lucerns, which is the skinne of a beatt fo called, being nere the bignes of a wolfe, of colour betweene red and browne, fomething mayled like a cat, and mingled with blacke spottes, bred in Muscovie and Ruscia, & is a very rich furre. Genets, that is the skinne of a beaft fo called, of bignes betweene a cat and a wefell, mayled like a cat, and of the nature of a cat, bred in Spaine. Whereof there bee two kinds, blacke, and gray, and the blacke the more precious furre, hauing blacke spots vpon it hardly to be seene. Foines, is of fashion like the Sable bred in Fraunce for the most part : the toppe of the furre is blacke, and the ground whitish. Marterne, is a beast very like the Sable, the skinne something courser, it liueth in all countries that be not too cold, as England, Ireland.ege. and the best be in Ireland. Miniuer, is nothing but the bellies of Squirels, as some men fay: others fay, it is a litle vermin like vnto a Wefell milke white, and commeth from Muscovie. Fitch is that which we otherwise call the Polecat here in England. Shankes, be the skinne of the shanke or legge of a kind of Kidde which beareth the furre, that we call Budge. Calaber, is

a litle beaft, in Signes about the quantitie of a squirel, of colour gray, and bred especially in high Germanie.

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Abell (gabella, gablum) com-Umeth of the French (gabelle, i. velligal) and hath the fame fignification among our old Writers, that (gabelle) hath in Fraunce, for M. Camden in his Britannia. pag. 217. speaking of Walling ford, hath these words: Continebat 276. hagas. i. domos reddentes novem libras de gablo: and pag. 282. of Oxford, thefe: Hec orbs reddebat pro telonio & gablo, & aliis consuetudinibus per annum, Regi quidem viginti libras, & lex lextarios mellis: Comitivero A'garo decem libras. Gabella (as Cassaneus defineth it, de consuetu. Burgund. pag. 119. Est vestigal and Colvitur pro bonis mobilibus, id est, probiis qua vehuntur, distinguishing it from Tributum, quia Tributum est proprie, quod fisco vel Principi Colvitur pro rebus immobilibus.

Gage, (vadium) commeth of the French (gager. i. dare pignus, pignore certare) and is it selfe a French word nothing chaged, but in pronunciation. It signifieth with vs also a pawne of pledge. Glanvile lib. 10.cap.6. where he saith thus: Quandoque

res mobiles ponuntur in vadium, quandoque res immobiles, and a litle after that, thus: Invadiatur res qua doque ad terminum, quandoque sine termino. Item quandoque invadiatur res aliqua in mortuo vadio, quandoque non. And from that chapter to the end of the twelfth in the same booke, he handleth this only thing. Though the word (gage) be retained as it is a substantine, yet as it is a verbe, the vse hath turned the G. into W. fo as it is oftener written (wage:) as to wage deliuerance, that is, to give fecuritie that a thing shall be delivered. For if he that diffrained, being fiewed, have not delivered the catell that were distrained, then he shall not onely avow the distresse, but (gager deliuerance) i. put in suretie, that he will deliuer the catell distrained. Fitzh. nat. br. fol. 74. D. & 67. F. whome see also fol. 67. F. G. yet in some cases, he shall not by tyed to make this securitie: as if the catell died in pound. Kitchin fol. 145. or if he claime a propertie in the catell fiewed for. Termes of the lawe. To wage lawe what it is, see in his place. verbo. Lane. See Morigage.

Gager deliverance. Sec Gage.

Gayle. See Gaoll.

Gainage, (Wainagium) is necre to the French (Gaignage, i.quaflus, lucrum,) and fignifieth in

our common lawe, the land held by the baser kind of Sokemen or villeines. Bract. lib. I. cap. o. where he hath these words, speaking of servants: Et in boc legem babent contra dominos, quod stare possunt in indicio contra eos de vita & membris propter seuitiam dominorum, vel propter intolerabilem iniuriam. Vt fi cos distruant, quod salvum non possit eis esse Wainagium sum. Hoc autem verum est de illis servis, qui tenent in antiquo dominico corone. And againe, lib. 3. tract. 2. cap. I Miles & liber homo non amerciabitur nisi secundum modum delicti secundum quod delictu fuit magnum vel parvum, & salvo contenemento suo: Mercator vero, non nisi salva mercandiza sua: & villanus, non nisi salvo Wainagio suo. This in Westm. 1. cap. 6. an. 3. Ed. prim. is called Gaynure: and againe, cap. 17. and in magna charta, cap. 14. it is called wainage. I find it in the old. nat. br. fol. 117. called Gainor. viz. in these words: The writ of Aile was pracipe, &c. quod reddat vnam bovetam terra, & vnam bovatam marifei: and the writ was abated for that the oxegang is alwaies of a thing that lyeth in gainor. I thinke this word was vied of lands viually plowed, because they that had it in occupation, had nothing of it but the profit and fruite raised of it by their owne paines, toward their fufleli 2 nance,

nance, nor any other title, but at the Lords will. Gainor again in the same booke, fol. 12. is vied for a Sokeman, that hath fuch land in his occupation. In the 32. chapter of the Grand Custumarie of Normandie: Gaigneurs be ruricola qui terras eleemozinatas possident: and Britton vseth gainer, for to plow or till, fol. 65. a. & 42. b. West parte 2. symbol. titulo, Recoueries. fest. 3. hath these words: A pracipe quod reddat, lyeth not in Bovata marisci. I 3. Ed. 3. fol. 3. norde selone terra. Ed. I. for the vncertaintie: because a selion, which is a land, sometime containeth an acre, sometime halfe an acre, fometime more, and sometime lesse. It lyeth not of a garden, cotage, or croft. 14. Affic. 13.8. H. 63. 22. Ed. 4. 13. de virgata terra. 41. 43. 13. Ed. 3. de fodina, de minera, de mercatu. 13. E. 3. for they bee not in demesn: but in gaine, &c. Lastly, in the statute of Distresses in the Exchequer. anno 51. H. 3. I find these words. No man of religion, nor other, shall be difreined by his beafts that gaine the land.

Galege, (galica) feemeth to come of the French, (galloches) which fignifieth a certaine kinde of shoo worne by the Ganles in foule weather of old times. I find it ysed for some such imple-

ment. anno 4. Ed. 4. cap. 7. & anno 14. & 15. H. 8. cap. 9. where it is written plainely. Galoches.

Galingal (cyperus) is a medicinal herbe, the nature and diuersitie whereof is expressed in Gerards herball. lib. 1. cap. 22. The roote of this is mentioned for a drugge to be garbled. anno 1. Iaco. cap. 19.

Gallihalpens, were a kind of coine forbidden by the statute.

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Galloches. See Galege.
Gals, (Galla) be a kind of hard fruite like a nutte, but rounder, growing of the tree called in latine (galla.) The divers kinds and vies whereof Gerard expresset in his Herball. ltb. 3. cap. 34. This is a drugge to be garbled. anno 1. Iaco.cap. 19.

Gaol, (gaola) commeth of the French (Geole. i. caveola) a cage for birds, but is metaphorically vsed for a prison. Thence commeth (Geoler) whome we call

Gayler or Gaoler.

Garbe (garba) commeth of the French (garbe, aliâs, gerben fascis.) It signifieth with vs, a bundle or sheafe of come. Charta de forest a. cap. 7. and garba sagittarum, is a sheafe of arrowes. Skene de verb. signif. verbo, Garba.

R. 3. cap. 11. is the forting or culling out the good from the

bad.

bad. As garbling of spice, is nothing but to purific it from the drosse and dust that is mixed with it. It may seeme to proceed from the Italian (garbo) that

is, finenesse, neatnesse.

Gard, (Custodia) commeth of the French, (garde) being all of one fignification. It fignifieth in our common lawe, a custodie or care of defence: but hath divers applications: fometimes to those that attend vpon the fafctie of the Prince, called Yeomen of the Guard: somtime to fuch as have the education of children under age, or of an Idiot: sometime to a writte touching wardshippe. Which writs are of three forts: one called a right of guard or ward, in French, droit de gard, Fitzh. nat. br. fol. 139. the second is eie-Elment de gard. Idem fol. 139.L. the third, is rauishment de gard. Idem fol. 140. F.G. See Gardem, Sec Ward.

Gardein (Custos) commeth of the French (gardien,) and yet the German (Warden) is neare vnto it. It fignifieth generally him, that hath the charge or custodie of any person or thing: but most notoriously him, that hath the education or protection of such people, as are not of sufficient discretion, to guide themselues and their owne affaires, as children and Idiots:

being indeede as largely extended, as both (Tutor and Curator) among the Civilians. For whereas Tutor is he, that hath the government of a youth, vntill he come to 14. yeares of age, and Curator, he that hath the disposition and ordering of his substance afterward, vntil he attaine to 25. yeares : or that hath the charge of a franticke person during his lunacie: the common Lawyers vse but onely Gardien or Gardian for both thele. And for the better vuderstanding of our English lawe in this thing, you must know, that as tutor is either testamentarius, or à Pretore datus ex lege Atilia, or laftly, legitimus: fo we have three fortes of Gardeines in England: one ordained by the father in his last will, another appointed by the Judge afterward, the third cast vpon the Minor by the lawe and custome of the land. Touching the first, a man hauing goods and chatels neuer fo many, may appoint a gardein to the bodie or person of his child, by his last will and testament, vntill he come to the age of fourteene yeares, and fo the dispofing or ordering of his substance, vntill what time he thinketh meet, and that is most commonly to the age of 21. yeares. The fame may he do, if he have lands to neuer fo great a valew, fo they 113 hold

hold not in capite of the king. nor of any other Lord, by knights feruice And in the former case, if the father appoint no Gardein to his child, the Ordinarie may appoint one to order his moueables and charels, vntill the age of 14. yeares: at which time he may chuse his guardian, accordingly as by the the civill lawe he may his Curator. For we hold all one rule with the Civilians in this cafe: and that is. Invito curator non datur. And for his lands, if he hold any by copie of court rolle, commonly the Lord of the fee appointeth him a guardian, vntill he come to the age of 14. yeres, and that is one, next of kind to the Minor of that fide, that can hope for least profitby his death. If he hold by charter in focage, then the next of kind on that fide by which the land commeth not is the guardian: and hereupon called guardian in socree. And that which is faid here of locage feemeth to be true like wife in petit sergeantie anno vicesimo ostano. Edvardi primi. statuto primo. And the reason of this, Fortesque giucth in his booke, intituled, A commendation of the policique lames of England cap. 44. viz. because there might be sulpition, if the next kinfman on that fide by which the land delcendeth, thould have the custody and education of the child, that for defire of his land, he might be entifed to worke him some mischiefe. Lastly, if a man dve feifed of lands, holding by knights feruice, leauing his heire in minoritie, that is, vuder 21. yeares: the Lord of the fee hath. by law, the custodie both of the heire and his land, vntill he come to age. See the flatute, arno 28. Ed. prim. statut. prim. And the reafon of this, Fortescue likewise giueth, for that hee to whom by his tenure he oweth knights feruice, when he can performeit, is likelieft to traine him up in martiall and ingenious discipline, vetill he be of abilitie. But Polidore Virgil in his Chronicle, lib. 16. faith, that this was Novum vectigalis genus excogitatum, to helpe Henry the third, being oppressed much with pouertie, by reason he received the king. dome much wasted by the wars of his auncestours; and therefore needing extraordinarie helpe to vphold his estate: yet the 33. chapter of the Grand Cultumary maketh mention of this to have beneyled by the Normans; and I thinke this the truer opinion. Here it is to be observed, whe ther land in knights service hold in capite, or of another Lord, or fome of the King, and some of mother, If of the king, whether of the king alone or not, all is

one. For the king in this case is guardian to the heires both person and land by his prerogatiue. Stampf prerog. cap. 1. If he hould of a common Lord, it is either of one alone or more; if of one onely, then is he guardian of both person and lands; if of more, then the Lord of whome he houldeth by the elder tenure, is guardian of the person, and every one of the rest bath the custodie of the land holden of him selfe. If the prioritie of the tenure cannot be discerned, then is he guardian of the person, that first happeth him. Termes of the lawe. Stawnf. vbi supra. whom you may reade more at large: which Author fol. 19, maketh mention of gardeyn in feit, and Gardeyn in droit: that is, in deed, and in lawe. I take the first to be him that hath purchased, or otherwise obtained the ward of the Lord of whom the land holdethe the fecond, him that hath the right by his inheritance and seignorie. o'd. nat. br. fol.94 Then is there gardein per cause de gard, which is he that hath the wardship of a Minor, because he is guardian of his Lord being likewise in minoritie. Stampfivbi Supra. fol. 15. Of this you may reade Skene de verb. signif. verbo Varda. by whom you may learn great affinitie, and yet some dif-

ference betweene the lawe of Scotland, and ours in this point.

Guardia, is a word vsed among the Feudists, for the Latine (cu-stodia,) and guardianus seu guardio dicitur ille, cui custodia commissa est. lib. Feudo, 1. titulo. 2. & tit. 11.

Gardeyn of the spiritualties, (Custos spiritualium, vel spiritualitatis) is he to whom the spirituall iurisdiction of any Diocesse is committed, during the vacancy of the see. anno 25. H. 8. cap. 21. And I take, that the guardeyn of the spiritualties, may be either Guardeyn in lawe, or sure Magistratus, as the Archbishop is of any Dioces within his prouince, or guardian by delegation, as he whom the Archbishop or Vicar generall doth for the time depute.

Gardeyn of the peace, (Custos pacis.) See Conservatour of the

peace.

Gardeyn of the Cinque ports, (Gardianus quinque portuum) is a Magistrate that hath the inrisdiction of those hauens in the east part of England, which are commonly called the Cinque ports, that is, the fine hauens: who there hath all that inrisdiction, that the Admirall of England hath in places not exempt. The reason why one Magistrate should be affigned to these sew hauens, seemeth

to be, because they in respect of their fituation, aunciently required a more vigilant care, then other havens, being in greater daunger of invasion by our enemies, by reason that the sea is narrower there then in any other place. M. Camden in his Britannia, pag. 238. faith, that the Romaines, after they had feeled themselves and their Empire here in England, appointed a Magistrate or gouernour ouer those East partes, whom they tearmed Comitem littoris Saxonici per Britanniam, hauing another that did beare the fame title on the opposite part of the fea: whose office was to strengthen the sea coasts with munition, against the outrages and robberies of the Barbarians. And farder fignifieth his opinion, that this Warden of the Cinque ports, was first erected amongst vs, in imitation of that Romaine policie. See Cinque ports.

is a course wooll full of staring haires, as such as groweth about the pesill or shankes of the sheepe.

Garnishmene, commeth of the French (Garnir. i. instructe.) It significant in our common lawe, a warning given to one for his appearance, and that for the beter surnishing of the cause and

court. For example, one is fiewed for the detinew of certaine euidences or charters, and faith, that the enidences were delinered vnto him not one'v by the plaintiffe, but by another alfo : and therefore prayeth. that that other may be warned to pleade with the plaint ffe. whether the faid conditions bee performed yea or no. And in this petition he is faid to pray garnishment. New booke of Entries. fol. 211. colum. 3. Termes of the lawe. Cromptons Iurifd. fol. 211. which may be interpreted either warning of that other, or elfe furnishing of the court with parties sufficient, throughly to determine the cause : because vitill he appeare and ioyne, the defendant (as Fitzh. faith) 15, as it were, out of the court. nat. br. fol. 106. G. and the court is not prouided of all parties to the action. I am the bolder thus to interpret it, because I find Britton in the same mind. cap. 28. where he faith, that contracts be fome naked, and fans garnment, and some furnished, or to vie the literall fignification of his word, appareled: but a naked obligation giveth no action, but by common affent. And therefore it is necessarie or needful!, that enery obligation be appareled. And an obligation ought to be appareled with these five fortes

vincula nominavit : co Kalendis Augusti, dedicauit. In qua festivitate populus illic ipsa vincula hodie ofculatur. So that this day being before called onely the Kalends of August, was vpon this occasion afterward termed indifferently either of the inffrument that wrought this miracle, Saint Peters day ad vincula, or of that part of the maiden, wheron the miracle was wrought, the Gule of August.

Gultwit, seemeth to be compounded of (Gult, i. noxa) and wit, which is faid by some skilfull men to be an auncient termination of the words in the Saxon tongue, fignifiing nothing in it felfe, but as (dom) or (hood) and fuch like be in these english words (Christendom) and (Manbood) or fuch others: others fay, and it is true, that wit fignifieth blame or reprehension. Gultwit (as Saxon in his description of England ca. 11. doth interpret it) is an amends for trespas.

Gust (Hospes) is vsed by Bra-Hon for a Araunger or guelt, that lodgeth with vs the second night: lib. 3. tracta. 2.ca. 10. In the lawes of Saint Edward set sorth by M. Lamberd, num. 27. it is written Gest: of this fee more in Vncothe.

Gumme (gummi) is a certaine clammie or tough liquor that in maner of a swetie excrement,

issueth out of trees, and is hardened by the sunne. Of these ther be divers forts brought over seas, that be drugs to be garbled, as appeareth by the statute anno I. Iaco, ca. 19.

Gutter tyle, alias corner tyle, is a tile made three corner wise, efpecially to be laid in gutters,o at the corners of tyled houses' which you shall often see vpon douehouses at the foure corners of their rofes, anno 17. Eduardi 4.Ca. 4.

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T Abeas corpus, is a writ, the which a man indited of some trespas before Iustices of peace, or in a court of any franchise, and vpon his apprehension being laid in prison for the fame, may have out of the kings bench, thereby to remooue himselfe thither at his owne costs, and to answer the cause there, &c. Fizh.nat.br. fol.250.H. And the order is in this case, first to procure a (Certiorari) out of the Chaucerie directed to the faid Iustices for the remooning of the Inditemet into the kings bench, and vpon that to procure this writ to the Skyreeue, for the caufing of his body to be brought at a day, Register indiciall. fol. 81. where you shall finde divers cafes, wherein this writ is vsed.

Habens corpora, is a writ that li-LII

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eth for the bringing in of a lurie, or so many of them, as refuse to come vpon the (venire facias) for the tryall of a cause brought to issue. old nat br. fol.

157. See great diversitie of this writ, in the table of the Register Iudiciall. verbo, babeas corpora. & the new booke of Entries. verba eodem.

Habendum, is a word of forme in a deede of conueyance, to the true vnderstanding whereof you must knowe, that in enery deede of conueyance, there be 2. principaliparts, the premisses, and the habendum. The office of the premisses is, to expresse the name of the grauntour, the grauntee, and the thing graunted or to be graunted. The office of the (habendum) is to limite the estate, so that the generall implication of the estate, which by construction of lawe passeth in the premisses, is by the (babendum) controlled and qualified. As in a lease to two persons, the (habendum) to one for life, the remainder to the other for life, altereth the generall implication of the joynt tenancie in the freehould, which should passe by the premisses, if the (Habendum) weare not. Cooke. vol. 2. Bucklers case.fo. 55. See Vse.

Habere facias seismam, is a writ Iudicial, which lyeth, where a man hath recoursed lands in the kings court, directed to the Shyreeue, and commaunding him to gine him feifin of the land recovered. o'd nat. br. fol. 154. Termes of the lawe: whereof see great diversity also in the table of the Register Indiciall, verb. Habere facins seifina. This writ is iffning sometime out of the Records of a fine executorie, dire-Eted to the Shyreeue of the countie, where the land lyeth, & commanding himto give to the Cognizee or his heires, feifin of the land, whereof the fine is levied. which writ lyeth within the yeare after the fine, or Iudgemet vpon 2 ((cire facias) and may be made in divers formes. West. parte. 2. symb. titulo Fines. (ect. 126. There is also a writ called Habere facias seisinam ubi Rex babuit annum, diem, & vastum, which is for the redeliuery of lands to the Lord of the fee, after heth taken his king due of his lands that was conuicted of felonie. Register.orig. fol. 165.

Habere facine visum, is a write that lyeth in divers cases, where view is to be taken of the lands or tenements in question. See Fizh. nat. br. in Indice. verbo, (View) See Braston. li. 5. trast. 3. ca. 8. & lib. 5. parte. 2. ca. 11. See view. See the Register. Indiciall, fol. 1. 26, 28. 45. 49. 52.

Haberietts (Hauberietus pan-

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nus)magn.chare.ca.25. & pupilla

oculi.parte. 5.ca.22.

Hables, is the plurall of the French (hable) fignifing as much as a porte or haven of the sea, whence ships doe set forth into other countries, and whether they doe arrive, when they returne from their voyage. This word is vsed. anna 27. Hen. 6.

herede deliberandealii qui habet custediam terra, is a writ directed to the Shyreeue, willing him to commande one hauing the body of him, that is ward to another, to deliuer him to him, whose ward he is by reason of his land. Register. original. fol.

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Harede abdueto, is a writ that lyeth for the lord, who having the wardship of his tenent vnder age by right, cannot come by his body, for that he is conucyed away by another. old.nat. br. fol. 93. See Ravishment de Gard, and Harede rapto, in Regist. orig fol. 163.

Haretico comburendo, is a writ that lyeth against him, that is an heretike. viz. that having beene once convinced of herify by his Bishop, and having absured it, afterward falleth into it againe, or into some other, and is there-vpon committed to the secular power. Fizh. nat. br. fol. 269.

Haga, is vsed as a kinde of la-

tine word for a house. Ifinde in an auncient booke sometime belonging to the abbey of Saint Augustines in Canterbury, that king Stephen sent his writ to the Shyrecue and Iustices of Kent, in this maner. Stephanus Rex Anglorum vicecomitic Iusticiariis de Kent salutem. pracipio quod faciatis habere ecclesia sancti Augustini monachis hagam suam quam Gosceoldus eis dedit, ita bene e in pace e instè quiete e libere, sicut eam eis dedit in morte sua coram legalibus testibus, e.c.

Hagbut, See Haque and Ha-

quebut.

Haye boote, seemeth to be compounded (Haye.i. Sepes) and (Bote.i. compensatio) The former is french, and the second is Saxon. And although it doe fall out sometime, that our words be so compounded: yet is it rare. wherefore it may be thought peraduenture to come as well from (Hag) and (boote) which be bothe saxon words. It is yied in our common lawe for a permission to take thorns and freeth to make or repaire hedges.

Halfe haque, See Haque.

Half merk (dimidia merka) secmeth to signifie a noble. Fitzh: nat:br:fol:5. where he saith that in case a writ of right be brought and the seisin of the Demaundant, or his auncester alleaged, the seisin is not traversable by

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the Defendant, but he may tender or proferre the halfe merke for the inquirie of this feifin, which is as much to fay in plainer termes, that the Defendant shall not be admitted to deny, that the Demandant or his auncester, was seised of the land in question, and to proue his deniall: but that hee shal be admitted to tender halfe a merke in money, to have an inquirie made, whether the Demandant.&c. were so seised or not. And in this fignification I reade the same words in the old English natura breuium, fol. 26. b.vis. Know ye, that in a writ of right of Advouzen brought by the king, the defendant shall not proferre the halfe merke, ne judgement finall shall be giuen against the king, &c. Wherof Fitz. vbi supra. M. giueth the reason, because in the kings case, the defendant shall bee permitted to trauerse the seifin by licence obtained of the Kings Sergeant. To this effect see Fitz. nat. br. fol. 31. C.D.E.

Halfe seale, is vsed in the Chauncerie for the sealing of Commissions vnto Delegates, appointed vpon any appeale in coclesiasticall or marine causes, an. 3. Elizab. cap. 5.

Halfe tongue. See Medietas lin-

gue.

Halymote, alias , Healgemot, is

a Court Baron. Manwoodparte prim. of his Forest lawes. pag. 111. and the etymologie is the meeting of the tenents of one hall or maner. M. Gwins preface to his reading, which for the esteeme thereof, is by copies spred into many mens hands.

Hallage, is a fee due for cloths brought for fale to Blackwell hal in London. Coke vol. 6. fol. 62. b.

Hamlet (Hameletum) is a diminutiue of (Ham) which fignifieth habitationem. Camden. Brit. pag. 149. 6 354. The French (hameau. i. viculus) is also nere vnto it. Kitchin hath Hamel in the fame sence fol. 215. who also vseth hampsel for an ould house or cotage decayed. fol. 103. Hamlet (as Stone vieth it in Ed. 3.) seemeth to be the searce of a Freeholder. For there he faith, that the faid king bestowed two maners and nine hamlets of land vpon the monasteric of Westminster, for the keeping of yearely obits for his wife Queene Eleanor deceased.

Hameling of dogges, or hambling of dogges, is all one with the expeditating of dogges. Manwood parte prim. of his Forest lawes. pag. 212. & parte 2. cap. 16. num. 5. where he saith, that this is the auncient terme that Foristers ysed for that mater, whence this word might be drawne, I dare not refolue: but it is not improbable, that hameling is quasi, hamhalding, that is, keeping at home, which is done by paring their feete so, as they cannot take any great delight in running abroade. See Expeditate.

Hampsell. See Hamlet.

Hamsoken, see Homesoken. M. Skene de verb: significa: writethit Haimsuken, and deriueth it from (Hains) a German word, fignifiing a house or dwelling, and (Suchen) that is to feeke, fearch, or persiew. It is ysed in Scotland for the crime of him, that violently, and contrary to the kings peace, affaulteth a man in his owne house: which (as he faith) is punishable equally with rauishing of a woman. significat quietantiam misericordie intrationis in alienam domum vi & ininfte. Fleta. lib. pri. cap. 47. Sec Home-Soken.

Hand in and Hand out. anno 17. Ed. 4. cap. 2. is the name of

an volawful game.

Hand full, is foure inches by the standard. anno 33. H.S. cap.

5.60.

Hankwit alias (Hangwit) or (Hengwit) commeth of the Saxon words (Hangen i. pendêre)
and (wit) whereof reade in Gultwit: Rastall in the title, Exposition of words saith, it is a liberty
graunted vnto a man, wherby

he is quit of a felon or theefe hanged without iudgement, or escaped out of custodie. I reade it interpreted, multta pro homine iniuste suspense. Or whether it may be a libertie, whereby a Lord chalengeth the forfeiture due for him, that fordoeth himselse within his see or not, let the Reader consider. See Bloodwit.

Hanper, (haneperium) haneper of the Chauncerie. anno 10. R. 2. cap. prim. seemeth to signific as fifem originally doth in Latine. See

Clerke of the Hanaper.

Hanse, (as Ortelius in the Index of his Additament to his Theater, verb. Ansiatici. saith,) is an old Gothish word. Where he sheweth not the interpretation. It fignifieth a certaine focietie of Merchants, combined together for the good vlage and fafe passage of merchandies from kingdome to kingdome. This focietie was, and (in part) yet is, endued with many large priviledges of princes, respe-Clinely within their territories. It had foure principall seates, or staples: where the Almaine or Dutch Merchants being the erectours of this focietie, had an especiall house, one of which was here in London, called Gildbalda Teutonicorum, or in our common language, the Steelyard. Of this you may reade more in L1 3

the place of Orteliss about men-

Happe, commeth of the french (Happer i. rapio, cum quadam velo citate capio) and the french feemeth to come from the greeke a praza. It figuifieth in our common lawe the fame thing: as to happe the possession of a deede poll. Litleton fol. 8.

Haque, is a handgunne of about three quarters of a yard long, anno. 33. H. 8. ca. 6. & a. 2. et. 3. Ed. 6. ca. 14. There is also the halfe haque or demy

hake. See Haquebut.

Haquebut, is that peece of artilery or gunue, which we otherwise call an harquebuse, being both french words. anno. 2. & 3. Ed. 6. ca. 14. & anno 4. & 5. Ph. & Mu. ca. 2.

Hariot, alias, Heriot (heriotum) is the faxon (heregeat) a litle altered, which is drawn from (bere i. exercitus) and a (beriot) in our Saxons time fignified a tribute given to the lord for his better preparation toward war. Lamb, in his expl. of Saxon words, verbo, bereotum. The name is fill reteined, but the vie altered: for whereas, by M. Lamb, opinion vbi supra, it did signifie so much as Releise doth now with vs: now it is taken for the best chatell that a tenent hach at the house of his death, due vnto the lord by custome, be

it horse, oxe, kettle, or any such like. M. Kitchin distinguisheth betweene herior service and herior cultom. fol. 133. & 134. for interpretation whereof, you shall finde these words in Brooke. titulo hariot. nes. 5. Hariot after the death of the tenent for life, is hariot custome. For hariot fervice is after the death of tenent in fee-simple. The new Expounder of the lawe termes faith. that bariot service (in some mans opinion) is often expressed in a mans graunt or deed, that hee holdeth by fuch feruice to pay bariot at the time of his death, that holdeth in fee simple. Hariot custome is, where bariots have bin payed time out of mind by custome. And this may be after the death of the tenent for life. See Plomden. fol. 95. b. 69. a. b. Bracton saith, that beriotum, est quasi Relevium. lib. 2. cap. 36. See Reliefe. But Britton.cap. 69. faith, that heriot is a reward made by the death of a tenent, to any Lorde, of the best beaste found in the possession of the tenent deceased, or of some other according to the ordinance or affignement of the party deceased, to the vsc of his Lord. which reward toucheth not the Lord at all, nor the heire, nor his inheritance, neither both any comparison to a Releife: forit proceedeth rather of grace or goodgoodwill then of right, and rather from villeins then free men. See Dyer, fol. 199. nu. 58. to the same effect. This in Scotland is called Herrezelda. compounded of herr. i. dominus, herus. and zeild.i. gift. Skene de verbo. signif. verbo Herrezelda.

Hart, is a stagge of 5. yeares old compleate. Manmood parte 2. of his forest lames. cap. A. nu.s. which he hath out of Budaus de philologia.li. 2. And if the King or Queene doe hunt him, and he escape away aliue, then afterward he is called a Hart royall. And if the beaft by the Kings or Queenes hunting be chased out of the forest and so escape: proclamation is commonly made in the places there about, that in regard of the pastime, that the beaft hath shewed to the King or Queene, none shall hurt him. or hinder him from returning to the forest; and then is he a Hart royall proclaimed . Idem. eodem.

Hauberk, commeth of the French (Haubert.i. lorica) wherevpon he that holdeth land in France by finding a coate or fhirt of mayle, and to be readie with it, when he shall be called, is said to have Hauberticum feudum. whereof Hotoman writeth thus: Hauberticum feudum gallica lingua vulgo dicitur pro (loricatum).i.datum vasallo ea conditi-

one, ut ad edictum loricatus fine cetaphractus presto sit. Nam vt lorica latinis proprie & minus vsitate est teomen de loro factum quo maiores in bello viebantur, quemadmodum Seruius Honoratus Ceribit in libro Enesdu 11 frequentissime autempro enea armatura ir tegra v-Surpaiur. sic apud Gallos Haubert proprie lorscam annulis contextam significat, quam vulgus Cotte de maille aptellat. Hec Hot. in verbis feudal. verbo Hauberticum fendum. Hauberk with our awnce sters seemeth to fignifie, as in France, a shirt or coate of mayle and so it seemeth to be ysed. anno 13. Ed. tri stat. 3. ca. 6. Though in these dates the word is otherwise written as (Halbert) and fignifieth a weapon well enough knowne.

Haward alias Hayward, secmeth to be compounded of two french word (Hay.i. sepes) & Garde . i. custodia) It fignifieth with vs, one that keepeth the common heard of the towne: & the reason may be, because one part of his office is to looke that they neither breake nor croppe the hedges of inclosed grounds. It may likewife come from the german (berd.i. armenin & (bewarren.i. custodire). He is a sworne officer in the Lords court:and the forme of his oath you may see in Kitchin. fol. 46.

Haw-

Hawkers, be certaine deceitfull felowes, that goe from place to place, buying & felling, brafle, pewter, and other merchandife, that ought to be vttered in open market. The appellation feemeeth to growe from their vncertaine wandering, like those that with hawkes seeke their game, where they can finde it. You finde the word. anno. 25. H. 8.ca. 6. & anno 33. eins dem. cap.

quarto. Headborow, is compounded of two words: (Heofod. i. caput) and (Bor-he.t.pignus) It fignifieth him, that is cheife of the franckpledg : and him that had the principall gouernment of them within his owne pledge. And as he was called Headborowe, so was he also called Borowhead, Bursholder, Thirdborow, Tithing man, Cheife pledge, or Borowelder, according to the diversitie of speach in divers places. Of this see M. Lamberd in his explication of Saxon words. verbo Centu. ria, and in his treatife of Conftables. and Smith de Repub. Anglo. 16.2. cap. 22. It nowe fignifieth Constable. See Constable.

Healfang, is compounded of two Soxon words (Hals.i.collū) and (fang.i.sapere, captivare). See Pylorie.

Here (Heres) though, for the word, it be borowed of the latine; yet, it hath not altogether

the same fignification with vs. that it hath with the Civilians. for whereas they call him (bare. dem) qui ex testamento succedit in vrinersum ius testatoris: the comon lawyers call him heire, that succeedeth by right of blood. in any mans lands or tenements in fee, for there is nothing paffeth with vs iure hareditatis. but onely fee. Moueables, or chatels immoueable, are given by testament, to whom the testator lifteth, or else are at the dispofition of the Ordinarie, to be distributed as he in conscience thinketh meete, Gloff in Provinciali constitut. Ita quorundam. De testamentis. verbo. Ab intestato. And whether a man enjoy moueable goods and chatels, by will or the discretion of the Ordinarie, he is not with ys called an heire: but onely he that fucceedeth either by testament, or right of bloud in fee. Cassanaus in consuetud. Burg. pag. 909. hath a distinction of hares, which in fome fort well accordeth with our lawe: For he faith, there is heres sanguinis, & hereditatis. And a man may be kares sanouinis with vs, that is, heyre apparent to his father, or other auncester. and yet may vpon displeasure, or meere will be defeated of his inheritance, or at the leaff, the greatest part thereof.

Heyre loome, seemeth to bee

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compounded of (beire) and (loome) that is, a frame, namely to weaue in. The word by time is drawne to a more generall fignification, then at the first it did beare, comprehending all implements of houshold, as namely, tables, presses, cupbords, bedsteedes, wainfcots, and such like, which by the custome of fome countries, having belonged to a house certaine descents. are neuer inventaged after the decease of the owner, as chatels, but accrew to the heyre with the house it selfe. This word is twice metaphorically vsed in that divine speech, made by that most worthy & complete noble man the Earle of Northampton, against that hellish, vgly, and damnable treason of gunpowder, plotted to consume the most vertuous King that euer raigned in Europe, together with his gratious Queene, and pretious posteritie, as also the three honorable estates of this renowned kingdome.

Heck, is the name of an Engine, to take fish in the river of Owfe by Yorke. anno 23. H.S.

cap. 18. wall should stow anson

· Heinfare, alras, binefare, (difcessio famuli a domino) the word is compounded of (bute) a scruant, and (fare) an old English word, fignifing a paffage. or golloo smorter

Henchman or beingan is a

German word fignifying (domesticum, aut vnum de familia.) It is vsed with vs. for one that runneth on foote attending vpon a man of honour or worship. anne 2. Ed. 4. cap. 5. anno 24. Henric. 8. cap. 13.

Hengwite, fignificat quietantia misericordia de latrone suspenso absque consideratione. Fleta lib. prim.

cap. 47. See Hankwit.

Herauld, (heraldus) is borowed by vs of the French (herault) and in M. Verstegans judgement proceedeth originally from two Dutch words (here. i. exercitus) and (healt. i. pugil magnanimus,) as if he should be called (the Champion of the armie) having by especiall office to chalenge vnto battell or combate. With vs it fignifieth anofficer at armes, whose function is to denounce warre to proclaime peace, or otherwise to be employed by the King in martiall messages or other bufineffe. The Romaines called them plurally (Feciales.) M. Stow in his Annals deriveth them from berges. pag. 12. which hee hath from other that writ of that lubiect, whose consecture I leave to the reader. Their office with vs, is described by Polydore. lib. 19. in this fort: speaking of the knights of the Garter, hee saith: habent insuper Apparitores ministres ques beraldos dicunt: quorum trafectus armorum Rex 2001tatur:

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tatur: hu belli & pacis nuncii. Ducibus. Comitibula à Rege factis insignia aptant, ac corum funera curant. He might haue added farder, that they be the Iudges and examiners of gentlemens armes, that they marshall all the solemnities at the coronations of princes, manage combats, and fuch like. There is also one and the fame vie of them with vs. and with the French nation, whence we have their name . And what their office is with them, see Lupanus lib. prim. de Magist. Francorum, ca. Heraldi. There be divers of them with vs. whereof three being the chiefe, are called Kings at armes. And of them Garteris the principall, instituted and created by Henry the fifth. Stowes annals. pag. 584. whose office is to attend the knights of the Garter at their folemnities, and to marshall the folemnities of the funerals of all the greater nobility, as of Trinces, Dukes, Marquises, Earles, Vicounts, and Barons, yet I finde in Plowden, cafu Reniger, & Fogaffa, that Ed. the fourth graunted the office of the king of Heralds, to one Garter cum feudis es proficuis ab antiquo, e. fol. 12.b. The next is Clarentins, ordained by Edward the fourth. for he attaining the Dukedome of Clarence by the death of George his brother, whom he beheaded for aspiring to the crowne, made the Herald, which properly belonged to the Duke of Clarence. a King at armes, and called him Clarentius. His proper office is, to marshall and dispose the funerals of all the leffer nobility, as knights, and Efquires, through the Realme of the fouth fide of Trent. The third is Norroy, or Northroy, whose office is the same on the north side of Trent, that Clarentius hath on this fide, as may well appeare by his name, fignifiing the northern king, or king of the north parts. Beside these, there be sixe other properly called Heralds according to their originall, as they were created to attend Dukes de. in marshall executions. viz. York, Lancaster, Somerset, Richemond, Chester, Windlesour. Lastly there be foure other called marshals or pourswivants at armes, reckoned after a fort, in the number of Heralds, and doe commonly fucceede in the place of the Heralds as they dye, or be preferred: and those be Blew Mantle, Rougecrosse, Rougedragon, and Percullis. The (feciales) among the Romans were priests, Nam Numa Pompilius dinini cultus institutionem in octo partes divisit, & ita etiam facerdotum octo ordines constituit, &c. Septima partem sacra constitutionis collegio eorum adiecit, qui Feciales vocantur. Erant autemex optimis optimis domibus viri electi, per omne ipsi vita tempus sacrati, quorum
partes in eo versabantur, vt sidei
publica inter populos praessent: nega
iustum aliquod bellum fore censebatur: nisi id per Feciales esset indiclum. Qui vt Festus ait, a faciendo,
quòd belli pacisque facienda apud
eos ius esset, Feciales dicti sunt. Corasius miscel·iuris ciui. li. 1.ca. 10.
nu. 12.

Herbage (herbagium) is a french word, and fignifieth in our common lawe, the fruit of the earth prouided by nature for the bitte or mouth of the catell. But it is most commonly vsed for a liberty that a man hath to seed his catell in another mans ground, as in the forest, &c. Cromptons Iurisdiction. fol. 197.

Herbenger commeth of the french (Heberger) or (Esberger) (hesberger).i. hospitio excipere. It fignifieth with vs, an officer of the princes court, that allotteth the noble men, and those of the household their lodgings. It signifieth also in Kuchin, an Inkeeper. fol. 176.

Hereditaments (hereditamenta) feeme to fignifie all fuch things immoueable, be they corporeall or incorporeall, as a man may haue to himselfe and his heires, by way of inheritance. v. anno 22. H. 8. ca. 2. or not being otherwise bequeathed, doe naturally and of course descend to

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him which is our next heire of blood, and fall not within the compas of an executour, or administratour, as chatels doe.

Heriot. See Hariot.

Hide of land (Hidaterra) Saxonice (Hidelandes) is a certaine measure or quantitie of land, by some mens opinion, that may be plowed with one plowe in a yeare: as the author of the newe Termes faith, verbo Hidage. by other men, it is an hundred acres. By Beda (who calleth it familia) it is as much as will maintaine a familie. Crompton in his lurifdict.fol.220. faith, that it confisteth of an hundred acres: euery acre in length 40. perches, and in breadth 4. perches, everie perch 16.foote and a halfe, and againe, fol. 222. A hide of land conteineth an hundred acres, & 8. hides or 800. acres, conteine a knights fee. Of this reade more in M. Lamberds Explica: of Saxon wordes, verbo Hydaterra . See Carue.

Hide and gaine. old. nat.br.fol. 71. Coke.lib.4. Tirringhams case. fignifieth earable land. See Gainage.

Hidage (Hidagium) is an extraordinarie taxe, to be paide for enery hide of land, Bracton ls. 2. c.6. writeth thus of it: Suntetiam quadam communes prastationes qua servitia non dicuntur, nec de consuetudine venium nis cum necessitas in-

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tervenerit, velcum Rex venerit: ficut funt Hidagia, Coragia, & Carvagia: & alia plura de necessitate & ex consensu communi totius Reoni introducta, co que al Dominum fendi non pertinent, &c. of this reade the new expounder of lawe termes, who faith that hidage is to be quit, if the king shall taxe all the lands by hides, and yet also graunteth it to be the taxe it selfe, faying that it was wont to be an yfuall kind of taxing as well for prouifion of armour, aspayments of money.

Hinefare. See Heinfare.

Hidel, i.H.7.ca.6. feeemeth to fignifie a place of protection, as a Sanctuarie.

Hierlome. See Heirlome.

Hine, feemeth to be vsed for a Seruant at husbandrie and the master hine a seruant that ouerseeth the rest. anno. 12.R. 2.ea.

quarte.

Hoblers (Hobellarii) are certaine men, that by their tenure are tyed to maintaine a little light nagge, for the certifing of any inuation made by enemies, or such like perill toward the Sea side, as Porchmouth, &c. of these you shall reade. anno 18. Ed. 3. stat. 2. cap. 7. & anno 25. eiusdem. stat. 5. ca. 8.

Hoghenhine, is he that commeth guestwise to a house, and lieth there the third night. After which time he is accounted of his familie in whose house he lieth: and if he offend the kings peace, his host must be answerable for him. Bracton lib. 3. tract. 2.cap. 10. In the lawes of King Edward set forth by M. Lamberd, he is called agenhine. wheare you may reade more of this mater.

Huhe (Hitha) is a petit hauen to land wares out of vessels or boates. new booke of Entrise.

fol. 3. colum. 3.

Hoggeshead, is a measure of wine or oyle containing the fourth parte of a tunne, that is 63.gallons. anno. i. R.3.ca. 13.

Hoistings. See Hustings.

Homage(Homagium) is a french word, fignifing (fidem clientularem.) for in the originall grants of land and tenements by way of fee, the lord did not onely tie his tenents or feed men to certaine services: but also tooke a submission with promis and oathe, to be true and loyall to him, as there lord & benefactour. This submission was and is called homage: the forme wherof you have in the fecond flatute anni.17. Ed: 2. in these words: when a free man shall doe homage to his Lord, of whome he holdeth in chiefe:he shall hold his hands together betweene the hands of his lord, and shall

fay thus: I become your man from this day forthe for life, for member, & for wordly honour, and shall owe you my faith for the land I hold of you: fauing the faith, that I doe owe vnto our Soueraigne Lord the king, and to mine other Lords. And in this maner the Lord of the fee . for which homage is due taketh homage of every tenent, as he commeth to the land or fee. Glanvile. lib. 9. ca. I. except they be women, who performe not homage but by their husbands, (yet see Fuzberbert.that saith the contrary in his natura br.fol. 157. F.) Reade Glanuile more at large in the faid first chapter, with the second, third & fourth; Thereason of this M. Skene giueth de verbo. significatione, verbo Homagium.viz.because Homage especially concerneth service in warre. He faith also, that confecrated Bishops, doe no homage, but onely fidelitie: the reason may be all one. And yet I find in the Register. orig. fol. 296. a. that a woman taking linerie of lands holden by knights seruice, must doe homage, but not being joyntly infeoffed, for then shee doth only fealtie. And see Glanuile in the ende of the first chapter of his nineth booke touching Bilhops consecrated, whome he denieth to performe homage to the king for their Baronie, but

onely fealty. Fulbeck reconcileth this, fol. 20.a. in these words. By our lawe a religious man may doe homage, but may not fay to his Lord . Egodevenio homo vefter. because he hath professed himselfe to be onely Gods man, but he may sav, I doe vnto vou homage, and to you shall be faithfull & loyall. See of this Britton. cap.68. Homage, is either new with the fee, or auncestrelle that is, wheare a man and his auncesters, time out of minde, haue held their lands by homage to their Lord, whereby the Lord is tied to warrant the land vnto his tenent . newe Termes of the lawe. This homage is vsed in other countries as well as ours, & was wont to be called Hominzum. See Hotom. de verbis feudalibus verbo. Homo. Skene divideth it into liegium & non liegium. de verb. signifi. verbo Homage. for the which fee Leige, and Hotoman, disfutatione de feudis tertia. Homage is sometime ysed for the Iurie in the Courte Baron, Smith de Repub. Anglo. lib. 2. cap. 27. The reason is because it confideth most commonly of fuch, as owe homage vnto the Lord of the fee. And these of the Feudists are called pares curia, sive curtis, sue donnus, sic dicuntur enim connassali sine compares, qui ab eodem patrono feudum receperunt, vel qui in eodem territorio fendum Mm 3

habent. Hotoman, Of this homage, you may read in the 20.c. of the Grand Custumarie of Normandie, where you shall understand of other forts of homage vied by them, & straunge vnto vs. whereunto iovice Hotoman.disputat. de feudis, in diners places & namely columna 860.C. hiis verbis. Deinceps de nota hominii & feudalitie Subjectionis videamus. Omnium quidem video effe commune, vt dexteras tanguam in fæderibus ungerent: plerumg; etiam ut dexteris aversis, osculum preberent, interdum, vt ambas manus iunitas patrono contrectandas praberent: Supplicum & dedititiorum nomine, qui velatas manus porrigebant. and pag. 861. his verbis. Multis Gallie atg; etiam Anglie moribus constitutum est (Quodex Anolico Litletonio intelleximus) ut hominium servili & supplier veneratione, ac plane tanguam a dedititiis trastetur. Nam vasallus discinctus, nudo capite, ad pedes sedentis patroni proiectus, ambas m inus iunctas porrigit: quas dum Dominus suis manibus amplectitur, bac verba pronunciat. Here, venio in tuum hominium es fidem, & homo tuus fio ore & manibus;tibig;iuro ac spondeo fidelem me tibi futurum eorum feudorum nomine, qua tuo beneficio accepi, &c. Whereunto you may adde him, colum. 819. G. 822. F. & 857. B. C. D. & F. Of homage in Scotland. reade M. Skene, de verb. signif.

werko Homagium. to whome you may also ioyne a plentifull discourse in speculo Durandi. commonly called (speculator) among the Civilians, titulo De Feudis.

Homagio respectuando, is a writto the Escheatour commaunding him to deliuer seisin of lands to the heire, that is at sull age, notwithstanding his homage not done, which ought to be performed before the heire houe liuerse of his lands, except there sall out some reasonable cause to hinder it. Fitzh. nat. br. sol. 269.

Homine eligendo ad custodiendam peciam sigilli pro Mercatoribus adin, is a writ directed to a corporation, for the choice of a new man to keepe the one part of the seale, appointed for statutes Merchant, when the other is dead, according to the statute of Actor Burnel. Register. orig. fol. 178. a.

Homine replegiando, is a writ for the bayle of a man out of prifon: which, in what cases it lyeth, and what not, See Fitz. nat. br. fol. 66. See also the Register orig. fol. 77. See the new booke of Entries. verb. Homme replegiando.

Homine capto in Wahernamium, is a writ to take him, that hath taken any bondman or woman, and led him or her out of the countie, fo that he or shee can-

not be repleuied according to lawe. Register orig. fol., 79.a. See Withernam.

Homscide (homicidium) is the flaving of a man: and it is divided into voluntarie, or casuall: homicide voluntarie is that. which is deliberated, and committed of a set mind, and purpose to kill:homicide volutary,is either with precedent malice, or without. The former is murder, and is the felonious killing through malice prepenfed of any person living in this realme vnder the Kings protection. West. part. 2. simbol: tit. Inditment. lect: 37. &c. v Gue ad 51. where you may see divers subdivisions of this mater. See also Glanusle. lib 1 4.cap: 2. Bract.1: 2. tra: 2 .c.4. 15.6 17. Brit.c.5. 6. 7. See Muder. Mans flaughter & Chance medley.

Homesoken, alias Hamsoken (Hamfoca) is compounded of (Ham. i. habitatio) and (Soken. i. quarere). It is by Bracton. lib. 3. tralt: 2.c: 23. thus defined. Homesoken dicitur inuasio domus contra pacem Domini Regis. It appeareth by Rastall in the title. Expositio of of words: that in auntient times fome men had an ummunitie to doe this: for he defineth Home-Token to be an immunitie from amercements for entring into houses violently, and without licence. which thing feemeth fo vnreasonable, that me thinketh he should be deceived in that his exposition. I would rather thinke it should be a libertie, or power graunted by the king to some common person, for the cognisance or punishment of such a trangression. for so I have seene it interpreted in an old note that I have given me by a fremd, which he had of an expert man toward the Exchequer, but of what authoritie I know not. See Hamsoken.

Hondhabend, is compounded of two Saxon words (Hond in hand, and habend, is having) and figuifieth a circumstance of manifest thest, when one is deprehended with the thing stollen in his hand. Braston. lib. 3. trast. 2. ca. 31. 6 54. who also vie the (handberend) for the same, eodem

сар. 8.

Honour (honor) is, beside the generall fignification, vsed specially for the more noble fort of seigneuries: whereof other inferiour Lordships, or maners doe depend by performance of customes and services, some or other, to those that are Lords of them. And I have reason to think that none are honoursoriginally, but such as are belonging to the King. How be it they may afterward be bestowed in see vpon other nobles. The maner of creating these honours may in part be gathered out of the statutes

anno

anno 31. H. 8. cap. 5. where Hampton court is made an honour. and anno 23. eiusaem. cap. 37. & 38. whereby Amptill and Grafton be likewise made honours, and anno 37. eiu (dem ca. 18. whereby the King hath power giuen by his leters patents, to erect foure severall honours. Of Westminster, of Kingston vpon Hull, Saint Ofithes in Effex, and Dodington in Berkshire. This word is also vied in the selfe same signification in other nations. See ca. licet causam. extra de probationibus, and Minsinger vpon it. nu. 4. In reading I have observed thus many honours in England: The honour of Aquila. Camden. Britan . pag. 231. of Clare. pag. 351. of Lancaster. pag. 581. of Tickbill.pag. 531. of Wallingford. Notingham, Boloine. Magnachar ta. cap: 31. of West Greenewish. Camd pag. 239. of Bedford. pupel. ocule. parte, 5. cap. 22. of Barhimsted. Brooke, titulo Tenure. nu. 16. of Hwittam. Camd pag. 333. of Plimpton. Cromptons Iurifd.fol. 115. of Crenecure, and Hagenet Fobert. anno 32. H. 8. cap. 48. of East Greenewish. of Windsour in Berk fore, and of Bealer in Effex. anno 37: II. 8. ca. 18. of Peverell in the county of Lincolne. Regi-Sterorig fol. 1. be worled ad brev

Horngeld, is compounded of Horn and Gildan or Gelder it Sol-

nere. It signifieth a taxe within the forest to be paid for horned beasts. Cromptons Iurisa. 197. And to be free thereof, is a pri-uiledge graunted by the king vnto such as he think eth good. Idem, ibidem. and Rastall in his exposition of words.

Hors de son see, is an exception to avoide an action brought for rent, issuing out of certaine land by him that pretendeth to be the Lord, or for some customes and services, for if he can instiffe that the land is without the compas of his see, the action falleth. v. Brocke. hec titulo.

Hospitallers (Hospitalarii) were certaine knights of an order, fo called, because they had the care of hospitals, wherein Pilgrims were received to these Pope Clement the fift transferred the Timplers, which order, by a councell held at Vienna in Fraunce, hefuppressed for their many and great offences, as he pretended. Thele Hospitallers be now the knights of Saint John of Malta. Coffan: gloria mundi, parte. 9.confiderai.s. This constitution was also obeyed in Ed. the 2. time here in Encland, and confirmed by Parlament. Tho walfing ham in histori a Ed 2. Stones annals. ibidem. These are mentioned anno 12. Edicalea 43.0 anno 9. H. 3. course, which thing icemstan -offerfonable, that me thinHostelers (Hostellarius) commeth of the french (Hosteler.i. Hostel) and signifieth with vs, those that otherwise we call Inkeepers, an. 9. Ed. 3. stat. 2.0.11.

Hoschepot (in partem positio) is a word that commeth out of the lowecountries, where (Hut [pot) signifieth flesh cut into pretie peeces, and fodden with herbs or roots, not vnlike that which the Romans called farraginem. Festus. Litleton saith that literally it fignifieth a pudding mixed of divers ingredients: but metaphorically a commxtion or putting together of lands, for the equall division of them being fo put together. Examples you have divers in him. fo. 5 5. and see Briton, fol: 119. There is in the Civile law collatio bonorum answerable vnto it, whereby if a child-aduaunced by the father in his life time, doe after his father decease, chalenge a childs part with the rest, he must cast in all that formerly he had receiued, and then take out an equall thare with the others. De collatio:bonorum. x.lib: 37. titulo. 6.

House, and Bote.i.compensatio. It signifieth estovers out of the Lords woode to vphould a te-

nement or house.

Houserobbing, is the robbing of a man in some part of his house, or his booth, or tet in any

faire or market, and the owner, or his wife, children, or feruants, being within the fame. for this is felonie by anno. 23. H:8. cap. i. and anno. 3. Ed. 6. cap. 9. yea, now it is felonie thoughe none be within the house. anno. 39. Elizaca. 15. See Burglarie. see West. part. 2. sym. tit. Inditemets, sett: 67.

Hudegeld, significat quiet antiam transgressionis illata in seruum transgredientem. Fleta lib.i. ca: 47. Quare whether it should not

be Hindegeld.

Hue, and Criel Hutesium & Clamor) come of 2. french words: (Huier) and (Crier) both fignifiing to shoute or cry a loude. M. Manwood, parte. 2. of his forest lawes. ca: 19. nu. 11. faith, that Hew is latine, meaning belike the Interiection: but vnder reformation, I think he is deceiued; this signifieth a pursuite of one hauing committed felonie by the high way, for if the party robbed, or any in the companie of one murdered or robbed, come to the Constable of the next towne, and will him to raise Hiew and Crie, or to make pursuite after the offedour, describing the partie, and shewing as neere as he can, which way he is gone: the Constable ought forthwith to call vpon the parishe for aide in feeking the felon: and if he be not found theare, then to give the next Constable

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war-

warning, and he the next, vntill the offender be apprehended, or at the least, vntill he be thus persued to the sea side. Of this reade Bracton.lib: 3. tracta: 2. ca. 5. Smith de Repub: Anglo: lib: 2. cap:20.and the statute anno. 13. Ed. 1. statute of Winchest. c. 3. 6.a. 28.Ed: 3.c: 11.6 anno. 27. El: c: 13. The Normans had fuch a persuite with a Crie after offenders as this is, which they called Haro: whereof you may reade the Grand Custumarie, cap. 54. Some call it Harol: the reason whereof they give to be this, that there was a Duke of Mormandy called Rol, a man of great iustice and seruerity against grieuous offenders: and that thereupon when they follow any in this persuite, they crie Ha-Rol, as if they should fay, Ah Rol where art thou that wert wont to redresse this, or what wouldst thou doe against these wretches, if thou now wert living. But in truth I thinke it commeth, from Harier. i. flagitare, inquiet are, vrgere. Hue is vsed alone.anno 4. Ed. pri. Stat. 2. This the Scots call Huesum and M. Skene de verbo. signif. verb. Huesium, saith, that it commeth of the french Oyes.i. Audite.making one etymologie of this and the crie vsed before a proclamation, The maner of their hue and cry, as he there describeth it, is that if a robberie be done, a horne

is blowne, and an out crie made: after which, if the partie flie away, and not yeeld himselfe to the Kings Bayliffe, he may be lawfully slaine, and hanged up upon the next gallowes. Of this Hue and crie, see Cromptons Institute of peace. fol. 160.b.

Huissers. See Vshers.

Hundred (Hundredum) is a pare of a shire, so called originally, because it conteined ten tithings called in latine Decennas. Thefe were first ordeined by king Alfred the 29.king of the West Saxons. Stowes Annals pag. 105. of these thus speaketh M. Lamb. in his explica. of Saxon words. verbe, Centuria: Aluredus rex, vbi cum Guthruno Daco fædus inierat, prudentissimum illud olim a letrone Moysi datum secutus consilium, Angliam primus in Catrapias, Centurias, & Decurias, partitus est. Satrapiam, shire a shyran (quod partiri significat) nominavit: Centuriam, Hundred: & Decuria, Toothing fine Tienmaniale. i. Decemvirale collegium appellavit: atq; iisdem nominibus vel hodie vocantur, &c. And againe afterward: Decrevit tum porro Aluredus libera vt condicionis quisq; in Centuriam ascriberetur aliquam, atq; in Decemvirale aliquod coniiceretur collegium. De minoribus negotiis Decuriones vi indicarent: ac si que esset res difficilior, ad Centuriam deferrent: difficillimas denia; & maximi momento

lites. Senator & prapolities in frequenti illo ex omni satrapia conventu compenerent. Modus autem indicandiquis fuerit, Ethelredus Rex, legum, quas frequenti apud Vanatingum senatu sancivit, capite 4. hus fere verbis exponit. In singulis centuriis comitia sunto, atq; libera condicionis viri duodeni, etate superiores, una cum prapolito, sacra tenentes iuranto, se adeo virum aliquem innocent em haud damnaturos Contemve ab Coluturos. This forme of dividing counties into Hundreds for beter gouernment, howfoeuer it is attributed to King Alfredhere with vs: yethe had it from Germanie, whence he and his came hither. For there centa or centena is a iurisdiction ouer a hundred townes, and conteineth the punishment of capitall crimes. Andreas Kitchin, in his trastate, de sublimi & regio territorii iure. ca. 4.pa. 123. where he also sheweth out of Tacitus, de situ & moribus Germa, that this divivifion was viuall amongst the Germans before his daies . By this you vnderstand the original and old vse of Hundreds, which hold still in name, and remaine in some fort of combination, for their feuerall seruices in divers respects, but their iurisdiction is abolished, and growne to the countie court, some few excepted, which haucbeene by pri-

uiledge annexed to the crowne, or graunted vnto some great subject, and so remaine still in the nature of a Fraunchise. And this bath beene ever fithence the stat.anno 14.Ed. 2. stat. 1.ca. 9. whereby these Hundred courts formerly fermed out by the Shyreeue to other men, were reduced all, or the most part, to to the countie court, and fo haue and doe remaine at this present. So that where you read now of any hundred courts, you must know, that they be seuerall fraunchises, wherein the Shyreeue hath not to deale by his ordinarie authoritie, except they of the Hundred refuse to doe their office. See West. parte. I. symbol.lib.2. fect. 288. See. Turn. The newe expounder of lawe termes faith, that the latine Hundredum is sometime vsed for an immunitie or priviledge, whereby a man is quit of mony or customes due to the gouernours, or Hundreders.

Hundreders (Hundredarii) be men empaneled or fit to be empaneled of a Iurie vpon any controversie, dwelling within the Hundred where the land lieth, which is in question, Cromptons Iurisdist fel. 217. & anno 35. Henrici 8. cap. 6. It signifies a also him that hath the Iurisdistion of a hundred, and holdeth the hundred court. anno 13. Ed. pri.

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CA.

ca.38.anno.9.Ed.2.stat.2.es anno 2.Ed.3.ca.4.and sometime is vsed for the Baylisse of an hundred. Hornin his mirrour of Instices, li.1.ca del ossice del coroner.

Hundred laghe, fignifieth the Hundred courte, from the which all the officers of the Kings forest were freed by the charter of Canutus. ca.9. Manwood. parte.1. pag. 2.

Huors, See Conders.

Huseans, commeth of the French (houseaux) i.ocrea, a boote. It is vied in the Statute anno. 4.

Ed. 4. ca. 7.

Hustings (Hustingum) may seeme to come from the French (Haulser.i.tollere, attollere, suberigere) for it significth the principall and highest court in London. anno 11.H.7.ca.21.6 Fitzh. nat. br.fol. 23. See anno.9. Ed. pri.ca. vnico. Other Cities and townes also have had a court of the samename, as Winchester, Lincolne, Torke, and Sheppey, and others, where the Barons or Citizens haue a record of fuch things as are determinable before them. Fleta. libro 2. cap. 55.

Husfastene, is he that holdeth house and land, Brastonlib. 3.trastat. 2.ca. 10 His words be these, Et in franco plegio esse debet omnis, qui terram tenet & domum, qui dicuntur Hussastene, & etiam alii qui illis deserviunt, qui dicuntur Folgheres, &c.

IA

Arrock: anno 1 Rs. 3. ca. 8. is a kinde of cork so called.

Identitate nominis, is a writthat lyeth for him who is vpou a Capias or Exigent, taken and committed to prison for another man of the same name: whereof see the forme and farder vse, in Fitzh. nat. br. fol. 267. see the Register originall, fol. 194.

Idiot, and he that afterward becometh of infane memory, differeth in diuers cases, Coke. fol. 154. b. lib.4. See here following

Idiota inquirenda.

Idiota inquirenda vel examinanda, is a writ that is directed to the excheatour or the Shyreeue of any county, where the king hath vinderstanding that there is an Idiot, naturally borne fo weake of understanding, that he connot gouern or mannage his inheritance, to call before him the partyfuspected of Idiocie, & examin him: And also to inquire by the oaths of twelue men, whether he be fufficiently witted to dispose of his owne lands with difcretion or not, and to certifie accordingly into the Chauncery: For the king hath the protection of his subjects, & by his prerogatiue the gouernmet of their lands and substance, that are naturally

defe-

defective in their owne discretion: statut. de prarogatina Regis editum anno 17. Ed. 2. cap. 8. wherof read Stampf. prarog. cap. 9. and of this writ, read Fitzh. nat. br. fol. 232. see the register orig. fol. 267.

Ietzon se Flotzon.

Ieofaile, is copouded of 3. french words, I' ay faille: i. ego lapfus fum: & signifieth in our commo lawe, an ouer-fight in pleading, touching the which you have a statute anno 32. H. 8. cap. 30. whereby it is enacted, that if the Iury haue once passed vpon the issue, though afterward there be found a leofaile in the pleading, yet iudgement shall likewise be giuen according to the verdict of the Iury. See Brooke, tit. Rrepleder: the author of the new tearms of law faith, that a Teofaile is when the parties to any fuite, haue in pleading proceeded fo farre, that they have ioyned iffue, which shalbe tried or is tried by a Jury or inquest: and this pleading or iffue is fo badly pleaded or ioyned, that it will be errour if they proceed: then some of the said parties may by their councell Thew it to the court, as well after verdict giuen and before judgement, as before the lury be charged: the shewing of which defects before the Iury charged, was often when the Jury came into the court to trie the iffue,

then the councell which will shew it, shall say: this inquest you ought not to take, and if it be after verdict, then he may say: to Judgement you ought not to goe: and because of this many delayes grew in suites, divers statutes are made to redresse them: viz. 32. H. 8.c. 30. & others in Q. Elizabethes daies, and yet the fault litle amended.

Ignoramus, is a word properly vsed by the grand Enquest empaneled in the inquisition of causes criminall and publique: and writen vpon the bill, whereby any crime is offered to their cofideration, when as they millike their euidence, as defective or to weake to make good the prefentment. The effect of which word fo written is, that all farder inquiry upon that party for that fault, is thereby stopped, and he deliuered without farder aunfwer. It hath a resemblance with that custome of the auncient Romans: where the Judges, when they absolued a person accused, did wright A. vpon a litle table prouided for that purpose.i. Abfolumus: if they judged him guilty, they writ C. id est. Condemnamusif they found the cause difficult and doubtfull, they writ. N. L. in est. Non liquet. Asconius Pedianus in cratio. pro Milone. Alexander ab Alexandro. Genial, dierum, li. 3. ca. 14.

Nn 3

Ike-

Tkenild streate, is one of the four famous wayes that the Romans made in England, taking the beginning ab Icenis, which were they that inhabited Northf. Southf. and Cambridg shyre, Camd. Britan. fol. 243. See Watling streat.

Imparlance (interlocutio vel interloquela) is a petition made In court ypon the count of the Demanndant by the tenent, or declaration of the plaintife, by the defendant, whereby he craneth respight, or an other day to put in his aunswer, See Brooke, titulo Continuance: See Dies datus: Imparlaunce seemeth to be generall or speciall: speciall imparlaunce is with this clause Caluis omnibus aduantagiis tam ad surisdictionem curia, quam breue & narrationem. Kitchin: fol. 200. Then generall in reason must be that, which is made at large without inferting that or the like clause. See Emper-

Impeachment of Waste, (impetitio vasti) commeth of the french (empeschement .i. impedimentum) and fignisfieth with vs, a restraint from committing of waste vpon lands or tenements: See Waste.

Implements, commeth of the french (emploier, is insumere in re aliqua) it fignisheth with vs, things tending to the necessarie vse of any trade or furniture of house-hould.

Impost, is a french word figni-

fling tribute, comming of the verb (imposer) is iniungere, irrogare, it fignifieth with vs, the taxe received by the prince for such merchandise, as are brought into any heaven from other nations: anno. 31. Elizabeth. cap: s. and I thinke it may in some sort be distinguished from customs, bicause custom is rather that profit, which the prince maketh of wares shipped out of the land: yet may they be consounded:

Improuement, See Approue, In casu consimili.is a writt: See casu consimili.

In casu proniso:is a writt:See

casus prouiso.

Incident (incidens) fignifieth a thing necessarily depending vpon another as more principall. For example, a court Baron is soe incident to a maner, and a court of piepowders to a faiet, that they cannot be seuered by graunt: for if a maner or faire be graunted, these courts cannot be reserved. Kitchin. fol. 36.

Incroche (increciare) Se encrechments. Admirals, and their deputies doe incroche to themfelues Iurisdictions, &c: anno. 15.

Rich: 2.ca: 3.

Indenture (indentura) is a writing comprising some contract between two, and being indented in the toppe aunswerably to another, that likewise

conteineth the same contracts this the Latines called σύργραφον, or σύργραφον, which among the civilians, is defined to be scriptura intercreditorem & debitorem indentata, in cuius sciscura literis capitalibus hac dictio συθγραφο, or plurally τα συθγραφα scribitur. and it differeth from χειρόγραφον, quia hoc manu unius tantum, puta debitoris scribitur, & penes debitorem relinquitur pruinc. constitut. de offic: archidiaco: cap:pri: verbo ln scriptis.vid. Gothosr: in notis ad l.27 §. 3. a. ad leg. Corn. de fals.

Indicauit, is a writ or prohibition that lieth for a patron of a church, whose Clerk is defendant in court Christian, in an action of tithes commenced by another clerke, and extending to the fourth part of the church, or of the tithes belonging vinto it. for in this case, the suite belongeth to the kings court, by the statute Westm: 2:cap:5. wherfore the patron of the defendant, being like to be prejudiced in his church and aduowzen, if the plaintife obteine in the court Christian, hath this means to remoue it to the kings court; the Register originall fol. 35.b. fee ould.nat: br.fol. 31. & the register fol:39. and Britton.cap: 109. fol. 260. A.

Indictment (Indictamentum) see

Indinisum, is vsed in the com-

mon law, for that which two houlde in common without particio. Kitchin. fol. 241. in these words: he houldeth pro indiviso, &c:

Indersment (indersamentum, signifieth in the common law, a condition writen you the other side of an obligation: West: part: 2. simbol: sect: 157.

Infang, alias infeng, significat quietantiam prioris prise ratione

conning, Fleta lin. cap: 4.7.

Infangthef, or Hinfangthefe, or Infangtheof, is compounded of 3. Saxon words: the preposition (In) (fang or fong) to take or catch, &(thef)it signifieth a priviledge or libertie graunted vnto Lords of certaine maners, to judge any theeife taken within there fee. Bracton. lib. 3. tracta. 2. cap. 8. In the lawes of King Edward, set out by M. Lambard: nu. 26. you have it thus described: Infangthefe, Institia cognoscentis latronis sua est, de homine suo, si capius fuerit super terram suam: Illivero qui non habent has consuetudines, coram insticia regia rectum faciant in Hundredis, vel in Wapentachiis, vel in Scyrus: The definition of this see also in Britton: fol: 90.6. and Roger Houeden. parte poster. suoin annalium.fol.345.b. & M. Skene de verborum significatione, verbo Infangthefe, who writeth of it at large, reciting dimersitie of opinions touching this and

IN

outfangthefe: Fleta saith that (infangtheef) for soe he writeth it, dicitur latro captus in terra alicuius seisitus aliquo latrocinio de suis propriis hominibus. libro 1. cap: 47:§ Infangtheese.

Information, See Enditement: See

the new termes of lawe.

Informer (informator) in french (informateur) is an officer belonging to the exchequer or kings bench, that denounceth or complaineth of those that offend against any penall statute. They are otherwise called promotors, but the men being bashfull of nature, doe blush at this name: these among the Ciuilians are called delatores.

Informatus non sum, is a formall aunswer or of course made by an atturney, that is commaunded by the court to say what he thinketh good in the defence of his client, by the which he is deemed to leaue his client vndefended, and so iudgement paseth for the aduerse party. See the new booke of Entries. titulo Non sum informatus. and Iudgement 12.

Ingress, is a writ of entrie, that is, whereby a man seeketh entry into lands or tenements; it lyeth in many divers cases wherit hath as many diversities of formes. See Entry: this writ is also called in the particular, pracipe quod reddat: because those be

formall words in all writs of entry. The writs as they lye in diuers cases, are these described in the old natura breu: Ingressu ad terminum qui prateriit, fol. 121.originall Regist. fol. 227. which lyeth where lands or tenements are let to a man for terme of yeares, and the tenent houldeth ouer his terme: Ingressu dum non fuit compos mentis. fol. 223. original: regist: fol. 228. which lyeth where a man felleth land or tenement when he is out of his wits, &c. Ingressu dum fuit infra atatem, fol. 123. Register originall fol. 228. which lyeth where one vnder age selleth his lands, &c. Ingressus super deseisna in le quibus fol. 125. Regist. orig. fol. 229. which lyeth where a man is difseised and dyeth, for his heire against the diffeisour. Ingressin per fol. 126. original register fol. 229. Ingressi sur cui in vita, fol. 128.0. riginall Revister fo. 239. both which fee in Enrry: Ingressucausa matrimonii prelocuti. fol. 130. original register fol. 233: which see causa matrimonii pralocuti.Ingressu in casu proviso, f. 1 32. Reouster original. fo. 235. which see casupro viso. Ingressu cui ante dinortium. fol. 130. original register fol. 233. for which see, cui ante dinorium: Ingressu in consimili casu, fol. 233. or sinall Register fol. 236. for which fee Consimili casu. Ingressu sine consensu capituli, fol. 128. ori-

ginal

ginal register, fol. 230: for which see Sine assensive capituli. Ingressivad communem legem. fol. 132. original register, fol. 234. which lyeth, where the tenent for terme of life or of anothers life, tenent by curtesie, or tenent in Dower maketh a seosment in see, & dyeth; he in the reversion shall have the foresaid writagainst whomsoener that is in the land, after such seosment made.

Ingrossing of a fine, is making the indentures by the chirographer, and the deliuery of them to the party vnto whom the cognisance is made. Fuzh. nat. br.

fol. 147. A.

Ingroffer (ingroffator) commeth of the frence Groffeur:i. crassiudo. or Grosier. i. Solidarins venditor, it fignifieth in the common law, one that buieth corne growing, or dead victuall, to sell againe, except barly for mault, oats for oatemeale, or victuals to retaile, badging by licence, and buying of oiles, spices, and victualls, other then fish or salte. anno. 5. Edward: 6.cap: 14. anno. 5. Elizab: cop: 14. anuo. 13. Elizab. cap: 25. thele be M. Wests. words, parte. 2. simbol: titulo Inditements: [ect. 64. howbest this definition rather doth belong to vnlawfull ingroffing, then to the word in generall. see Forstaller.

Inheritance (hareditas) is a perpetuity in lands or tenements to a man and his heirs. For Litleton cap:i.lib:i:hath these words: and it is to be understand, that this word(inheritance) is not onely vnderstand, where a man hath inheritance of lands and tenements by difcent of heritage, but also every fee simple or fee taile that a man hath by his purchase, may be said inheritance: for that, that his heires may inherit him: Seuerall inheritance is that, which two or moc hould scuerally, as if two men haue land given them to them and the heires of their two bodies, thefe haue iount estate during their liues, but their heires haue seuerall inheritance. Kitchin fol: 155. See the new terms of law. verbo Enheritance:

Inhibition (Inhibitio) is a writt to inhibit or forbid a Judge from farder proceding in the cause depeding before him: See Fuzh: nat:br:fol:39. where he putteth prohibition and inhibition together:inhibition is most commonly a writ issuing out of a higher courte Christian to a lower and inferiour, upon an Appeale.anno. 24. H. 8. cap: 12. and prohibition out of the kings courte to a court Christian, or to an inferiour temporall court.

Iniunction (iniunctio) is an interlocutory decree out of the Chacerie, sometimes to give possession vnto the plaintife, for want

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of apparence in the defendant; sometime to the Kings ordinary court, and somtime to the court Christian to stay proceeding in a cause vpon suggestion made, that the regour of the law, if it take place, is against equitie and conscience in that Case. see West: parte. 2. simb: titulo Proceeding in Channery (ett: 25.

Inlamph (Inlagacus) vel homo sub lege) fignifieth him that is in some frank pledge, of whome take Bractons words, l. 3. tracta: 2. cap. H. m. s. Minor vero, & quiinfra etatem duodecim annoru fuerit, vilagarinon potest nec extra legem poni:quia ante talem atatem non est sub lege aliqua, nec in decenna, non magis quam fæmina.qua velagari non potest quia ipsa non est sub lege. i. Inlomghe anglice: sc: in franco plegio sine decenna sicut masculus duodecim annorum & vlterius, &c. Inlaughe, significat hominem subiectum leo i, Fletali. i. cap. 47.

Inlagary (Inlagatio) is a restitution of one outlawed, to the kings protection, and to the benifite or estate of a subject. Bracton: lib. 3 tarcta: 2 cap. 14.nn.

6.7.8. Britton cap: 1 3.

Immates, are those that be admitted to dwell for their mony iointly with another ma, though in severall roomes of his mantio house, paffing in and out by one doore, and not being able to maintaine themselves, which are inquiralle in a leete. Kitchin. fol:45 where you may reade him at large who be properly Inmates in intendment of law. and whoe not.

Imprision, anno 18 Ed: 3 statu: 4: cap vnico. seemeth to signific fo much as an attempt, comming of the french empris) which is all one with (enterpris) an en-

terprise.

Inquirendo, is an authoritie giuen to a person or persons, to inquire into some thing for the kings aduantage, which in what cases it lieth, see the Register originall, fol. 72.85.124.265.266. 179.267.

Inquisition (Inquisitio) is a maner of proceeding in maters criminall, by the office of the ludge, which Hostiensis defineth thus: Inquisitio nibil aliud est quam alicuius criminis manifesti ex bono & aquo Iudicis competentis canonice fa-Eta investigatio, ca. qualiter. de accusatio. in the Decretales : this course we take here in England by the great Enquest before lustices in Eyre: See Eyre. and the places in Bracton and Britton therenoted; Inquisition is also with vs , vfed for the King in temporall causes and profits, in which kinde it is confounded with Office: Stan of prarog fo. 51. Sec Office.

Inrolement (Irrotulatio) is the

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registring, recording or entring of any lawful act in the rowles of the chauncerie, as recognifance acknowledged, or a statute or a fine leuied. See West. parte 2. Symbol. titulo Fines. sect.

Insimul tenuit, is one species of the writ called a Formdon. See

Formdon.

Intakers, be a kinde of theeues in Ridesdall.anno.9. H. 5. ca. 8. so called, as it seemeth, because they dwelling within that libertie, did receive in such booties of catell or other things as the our parters brought in vnto them.

See Out parters.

Interdiction (Interdictio) is vefed in the common lawe, in the fame fignification that it hath in the canon lawe, where it is thus defined: interdictio est censura ecclesiastica prohibens administrationem divinorum: c. quod in te: de panient: Gremiss. in the Decretals: and thus is it vsed. anno. 24. H.8. cap. 12.

Interp'eder, See Enterpleder.

Intrusion (Intrusio) by Bracton lib.4.cap.2. is thus defined:Intrusioest, vibi quis (cui nullum ius competitin re nec scintilla Iuris, possessionem vacuam ingreditur, qua nec corpore necanimo possidetur, sicut hareditatem iacentem antequam adita fuerit ab harede, vel saltema domino capitali ratione custodia, vel ratione eschaeta si forte haredes non

existant, vel si post mortem alicuius per finem factum, vel per modum donationis, vbi successio sibi locum vendicare non possit, vel si post mortem alicuius qui tenuit ad vitam debeat tenementum reverti ad proprietariu, ponat quis le in seisina antequa tenemetu illud veniat ad illu ad quem pertinere deberet ex pradi-Etis eausis, with whome agreeth Fleta, lib. 4. cap. 30. S. 1. 6 2. See Britton cap. 65. to the same effect. See the newe booke of Entries. verbo Entrusion. See Entrusion. See dessein: the author of new Terms of lawe would have intrusion especially after the tenent for life is deceased. verbo, Abatement. and abatement in all other cafes: But I finde not any latine word for abatement but intrusio, fo that I rather thinke these 2. english words to bee synonyma: and Fleta cap. Supra sitato, seemeth direct against this his opinion.

Intrusione, is a writ that lyeth against the intruder: Register: fol.

233.

Inuentarie (inuentarium) is a description or repertory orderly made of all dead mens goods and catels prized by foure credible men or more, which every executor or administrator ought to exhibite to the Ordinary, at such times as he shall appoint the same. West. parte prim: Simb: lib: 2. sett: 696. where likewise

you may fee the forme : This Inuentary proceedeth from the ciuill law; for whereas by the auncient law of the Romans, the heire was tyed to aunswer all the testators debts, by which meanes heritages were prejudiciall to many men and not profitable: Instinian to encorage men the better to take vppon them this charitable office, ordained, that if the heire would first make and exhibite a trew Inuentary of all the testatours substance comming to his hand, he should be no furder charged, then to the valew of the Inuentarie: L. vlt. Cod. de Iure deliberando.

Inuest (Inuestire) commeth of the french word (Inuester) and fignifiethto giue possession. Heare Hotoman de verbis feudalibus, verbo Innestitura: Innestitura barbarum nomen, barbaricam quog, rationem habet. Nam vt ait Feudista, lib. 2. titulo. 2. Inuestitura proprie dicisur quando basta vel aliquod corporeum traditur a domino; with vs we vie likewise to admit the tenents by delinering them a verge or rodd into their hands, and mimistring them an oath, which is called Inuesting: others define it thus: Inuestitura, est alicuius in Comius introductio.

Inure, fignifieth to take effect: as the pardon inureth: Stammf: prarog: fol. 40. See Enure.

Toynder, is the coupling of two

in a suite or action again st another: Fitzh. nat. br. fol. 118. H. 201. H. 221. & H. in many other places, as appeareth in the Index. verbo loynder.

Ioynt tenents (simul tenentes) liber intrationum, titula Formdon in vieu. 3. be those that come to and hould lands or tenements by one title proindiniso, or without partition. Litleton lib. 3. cap. 3. and termes of law: See Tenents in common.

loyning of issue (Innetio exitus)

See Iffue.

Icinture (Iunctura) is a concnant, whereby the husband or some other freind in his behalfe affüreth vuto his wife, in respect of mariage, lands or tenements for terme of her life, or otherwife, See West: part: 2. Symbol. lib. 2. titulo Couenants. sect. 128. and the new expositio of the law terms: it feemeth to be called a Ioynture, either because it is granted ratione iuncture in mainmonio, or because the land in franke mariage, is given iountly to the husband and the wife, and after to the heirs of their bodies, whereby the husband and wife be made ioynt tenents during the couerture. Coke li. 2. Butler & Bakers cafe.f. 27.b. See franckmariage. Toynture, is also vsed as the abstract of iounttenents. Coke lib. 3. the Marques of Wmchesters case. fol. 3. a.b. Iunstura, is also by B+4. Braiton and Fleta vsed for ioyning of one bargaine to another. Fleta lib. 2. ca. 60. touching the selfe same thing: and therefore ioynture in the first signification, may be so called, in respect that it is a bargaine of sinelyhood for the wife: adioyned to the contract of mariage.

Iourn Choppers, anno 8. Hen. 6. cap. 5. be regraters of yarn. Whether that we now call (yarne) were in those daies called (iourn) I cannot say: but (choppers) in these daies are well knowne to be chaungers. as choppers of

churches, &c.

Iourneyman, commeth of the French (Iournee) that is a day or dayes worke which argueth that they were called Iourneymen, that wrought with others by the day, though now by statute it be extended to those likewise, that couenant to worke in their occupation with another by the yeare, anno quinto Elizabeth, cap. quarto.

Issue (Exitus) commeth of the French (Issue: emanare) or the substantine (Issue: i.exitus, enentus). It hat divers applications in the common lawe: sometime being yied for the children begotten betweene a man and his wise: sometime for profits growing from an americament or fine, or expenses of suite: sometime for profits of lands or tenements:

West: 2. anno. 13. Edw. prim. cap. 39. sometime for that point of mater depending in fuite, wherupon the parties ioyne and put their cause to the triall of the Jury: and in all these it hath but one fignification, which is an effect of a cause proceeding, as the children be the effect of the mariage betweene the parents: the profits growing to the king or Lord from the punishment of any mans offence, is the effect of his transgression: the point referred to the triall of twelve men is the effect of pleading or processe. Mue, in this last fignification, is either generall or speciall : Generall iffue seemeth to be that, whereby it is referred to the Inry to bring in their verdict, whe ther the defendant have done any fuch thing, as the plaintife layeth to his charge. For example: if it be an offence against any flature, and the defendant pleade: not culpable: this being put to the lury, is called the generallissue: and ifa man complaine of a private wrong which the defendant denieth, & plead, no wrong nor diffeifin, and this be referred to the 12. it is likewise the generall issue. Kitchin. fol. 225. See the Doctor and Student, fol. 158. b. the special issue then must be that, where speciall mater being alleadged by the desendant for his desence, both

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the parties ioyne therevpon, and fo grow rather to a demurrer, if it be quastio luris, or to tryall by the Iurie, if it be quastio falts, see the new booke of Entries: verbo, Issue.

Innsture see Iointure.

Inrepatronatus, See the newe booke of Entries, verbo Iure patronatus in quare impedit. fol. 465.

cel. 3.

Iurie (Iurata) commeth of the french (Iurer: i iurare.) it fignifieth in our common lawe, a companie of men as 24. or 12. Sworne to deliuer a truth vpon such euidéce, as shalbe deliuered them touching the matter in question. Of which triall who may and who may not be empaneled, see Fitzh.nat. br.fol. 165. D. And for beter understanding of this point, it is to be knowne, that there be. 3. maner of trials in England: one by Parlament, another by battle, and the third by Affise or Iurie: Smith de repub. Anglorum.lib: 2.cap: 5.6.7.touching the 2. former reade him, and fee Battell, and Combat, and Parlament: the triall by Affise (be the action ciuse or criminall, publick or private, personall or reall) is referred for the fact to a Iurie, and as they finde it, so passeth the Iudgement and the great fauour that by this the King sheweth to his subjects more then the princes of other nations, you may reade in Glanuil. lib: 1: cap: 7. where he called it Regale beneficium clementis principis de consilio procerum populis indultum, quo vita hominu. & status integritati tam salubriter consulitur; vt m iure auod auis in libero soli tenemento possidet. retinendo, duelle casum declinare possint homines ambiguum, coc: fee the rest. This Iury is not vsed onely in circuits of Iustices errant, but also in other courts and maters of office, as if the Escheatour make inquisition in any thing touching his office, he doth it by a Jury or inquest; if the Coroner inquire how a subject found dead, came to his end: he vseth an inquest the Iustices of peace in ther quarter Sessions, the Shyreeue in his county and Turne, the baylife of a Hundred, the Stewarde of a court Lecte or court Baron, if they inquire of any offence, or descide any cause betweene party and party, they doe it by the fame maner. So that where it is faid that all things be triable by Parlament, Battell, or affise; Aifise in this place is taken for a lury or Enquest, empaneled vpo any cause in a court, where this kind of triall is vsed:and though it be commonly deemed, that this custome of ending and desciding causes proceede from the Saxons and Brittons, and was of fa-

fauour permitted vnto vs by the Conquerour: yet I finde by the grand Customarie of Normandie. cap: 24. that this course was vied likewise in that countrie . For Affise is, in that Chapter, defined to be an assembley of wise men, with the Bailife in a place certaine at a time affigned 40. daies before. wherby Iustice may be done in causes heard in the court: of this custome also and those Knights of Normandie Iohannes Faber maketh mention. in the Rubrique of the title de militari testamento, in Institut. this Iury, though it appertaine to most courts of the common law, vet is it most notorious in the half yeare courts of the Iustices errants, commonlie called the great affifes, and in the quarter Sessions, and in them it is most ordinarily called a Iurie. And that in civile causes: wheras in other courts, it is oftener tearmed an enquest, and in the court Baron the Homage. In the generall Affise there are vsually many Iuries, bicause there be store of causes both civil and criminall commonly to be tried, wherof one is called the Grand Iury, and the rest petit Iuries: whereof it feemeth there should be one for every Hundred, Lamb. Eirenar. 1.4.cap. 3.pa. 384. The Grand Iurie confifteth ordinarily of 24. graue and fub-

stantiall gentlemen, or some of them veomen chosen indifferently out of the whole shyre by the Shyreeue, to consider of all bils of Inditement preferred to the court: which they doe either approoue, by writing vpon them these words, billa vera: or disallowe, by writing, Igneramus: fuch as they doe approoue, if they touch life and death, are farder referred to another Jury to be confidered of, because the case is of such importance: but others of lighter moment, are vpon their allowance, without more worke fined by the bench, except the party travers the Inditement, or chalenge it for insufficiencie, or remooue the cause to a higher court by certiorarie, in which 2. former cases it is referred to another Iurie, and in the latter transmitted to the higher. Lamb. Eire. 1.4.c.7. & presently vpon the allowance of this bill by the Grand Enquest, a man is faid to be indighted. Such as they diffalowe, are delinered to the benche, by whome they are forthwith cancilled or torne. The petit Jury confifteth of. 12.men at the leaft, & are Empanelled, as well vpon criminall as vpon civile causes, those that passe vpon offences of life and death, doe bring in their verdict either guiltie or not guiltie, wherevpon the prisoner, if he be

be found guiltie, is faid to be convicted and fo afterward receaueth his judgment and condemnation or otherwise is acquited and fett Free: of this reade Forte f: cap: 27. those that passe vpon ciuile causes reall, are all, or fo many as can conueniently be had, of the same hundred, where the land or tenement in question doth lie, and 4.at the least: And they vpon due examination bring in their verdict either for the demaundant, or Tenent. of this fee Fortesc.cap. 25.26.according vnto which, judgement passeth afterward in the court where the caule first began: and the reason hereof is, because these Iustices of Assise, are in this case, for the ease of the cuntry, onely to take the verdict of the Iurie, by the vertue of the writ called (nisi prius) and so returne it to the court where the cause is depending. Sec(Nisi prius.) Ioyne with this the chapter formerly cited out of the custumary of Normandie, and that of King Etheldreds lawes mentioned by Maister Lamberd, verbo Centuria . in his explication of Saxon words; and by these two words you shall perceive, that as well among these Normans, as the Saxons, the men of this Iury were affociats and Assistants to the Indges of the court, in a kind

of equality; whereas now a dajes they attend them in great humility, and are, as it were, at their commaund for the service of the court: the words fet downe by M. Lamberd are these: In singulis centuriis comitia sunto, atg; libera condicionis viri duodeni etate superiores, una cum praposito sacra tenentes, iuranto, se adeo virum als quem innocentem hand condemnaturos, sontemve absoluturos: to this ioyne also the 69. chapter of the faide custumarie. See Enquest. See 12. men. See Lamberds Evenarch. lib.s.cap.3.p.384.

Iuris virum, is a writ, that lyeth for the incumbent, whose predecessour hath alienated his lands or tenements the diversyses of which writ, see in Firsh.

nat. br. fol. 48.

Iurisdiction (Iurisdictio) is 2 dignity which a man hath by a power to doe Iustice in causes of complaint made before him. And there be two kinds of Jurifdictions, the one that a man hath by reason of his fee, and by vertue thereof doth right in all plaints concerning his fee: The other is a Iurisdiction guen by the prince to a baylife: this diuifion I have in the Custumary of Normandy, cap. 2. which is not vnapt for the practife of our common welth, for by him whom they call a baylife, we may understand all that have

commission from the prince to giue judgement in any cause: The civilians divide iurisdictionem generally understand in imperium & iuridictionem : and imperium in merum & mixtum. Of which you may reade many especiall trachats writen of them, as a mater of great difficulty and impor-

Instes, commeth of the French (Ioustes .i. decursus) and fignifieth with vs. contentions betweene Martiall men by speares onhorsbacke. anno 24. H. 8. cap. 13.

Instice (Insticiarius) is a French word, and fignifieth him, that is deputed by the king, to do right by way of judgement. the reason why he is called Instice and not ludex, is because in auncient time the latine word for him was (Iusticia) and not (Iusticiarius) as appeareth by Glan. lib. 2. cap. 6. Roger Houeden parte poster. suorum annalium, fo. 413. a. and divers other places, which appellation we have from the Normans, as appeareth by the grand custumary. cap. 3. and I doe the rather note it, because men of this funclion should hereby consider, that they are or ought to be, not (Iufti) in their iudgements, but in abstract (apfa insticia) how be it I hould it well, if they performe their office in concreto Another reason why they are called Insticiary with vs and not

Indices, is, bicause they have their authority by deputation, as Delegates to the king, and not iure magistratus; and therefore cannot depute others in their steed, the Iustice of the Forest onely excepted, who hath that liberty, especially given hun by the statute anno. 32. H. 8. cap. 35. for the Chanceller, Marshall, Admirall, and such like are not called Insticiarii but Indices: of these Inflices you have divers forts in England, as you may perceaue heare following. The maner of creating these Iustices, with other appertenences reede in

Fortescu.cap. 51.

Instice of the Kings bench (Iusticiarius de Banco regis) is a Lord by his office, and the cheife of the rest, wherefore he is also called Capitalis Insticiarius Anglia, his office especially is to heare and determine all plees of the crowne: that is, such as concerne offences committed against the crowne, dignitie, and peace of the King; as treasons, felonies, mayhems and fuch like, which you may fee in Bracton, lib. 3.tra-Etat. 2. per totum: and in Stannf. treatife intituled the plees of the crowne, from the first chapter to the 51. of the first Booke. But either it was from the beginning, or by time it is come to paffe, that he with his affiftans, heareth all perionall actions, and

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reall also, if they bee incident to any personall action depending before them : See Cromptons Inridict. fel. 67.60, of this court Bracton lib. 3. cap. 7. nu. 2. faith thus: placita vero civilia in rem & personam in Curia Domini Regis terminanda, coram dinersis insticiariis terminantur: Habet enim plures curias in quibus diversa actiones terminantur; & illarum curiarum habet unam propriam, sicut aulam regiam, & inticiaries capitales qui proprias causas Regis terminant, & aliorum omnium per querelam vel per privilegium sue libertatam; vt si sit aliquis qui implacitari non debeat, nisi coram Domino rege. This Iustice (as it seemeth) hath no patent under the broad feale. For so Crompton saith vbi supra. He is made onely by writ, which is a short one to this effect. Regina Iohanni Popham milici salute. Sciatis quod consistumus vos Insticiarium nostrum capitalem, ad placita coram nobis terminandum, durante beneplacito nostro, Teste, Ge. And Bracton in the place nowe recited, speaking of the common plees, faith, that fine warranto iurisdictionem non habet, which (I thinke) is to be understood of a commission under the great Seale. This court was first called the kings bench, because the King fate as Judge in it in his proper Person, and it was moueable with the court. See anno

9. H. 3. cap. 11. more of the Iurisdiction of this court see in Crompton vbi supra. See Kings bench. The oath of the Iustices see in the statute. anno 18. Ed. 3. stat. 4. See Oathe.

Instice of common plees (Insticiarius communium placitorum) is alfo a Lord by his office, and is called (Dominus Insticiarius communium placitorum) and he with his affistants originally did heare and determine all causes at the common lawe, that is, all civil causes betweene common perfons, as well personall as reall, for which cause it was called the court of common plees, in opposition to the plees of the Crowne or the Kings plees, which are speciall and appertaining to him onely. Of this, and the Iuridisdiction hereof, see Cromptons Iuri (diction. fo. 91. This Court was alwaies setled in a place, as appeareth by the flatute anno 9. H. 3. cap. 11. The oath of this Iustice and his affociats, see anno 18. Ed. 3. stat. 4. See Oath.

Instice of the Forest (Insticiarina Foreste) is also a Lord by his office, and hath the hearing and determining of all offences, within the Kings forest, commuted against Venison or Vert, of these there bee two, whereof the one hath Iurisdiction ouer al the forests, on this side Trent:

the other of all beyond. The cheifest point of their Jurisdiction, confisheth vpon the articles of the Kings Charter, called Charta de Foresta, made anno 9. H. 3. which was by the Barons hardly drawne from him, to the mitigation of ouer cruell ordinances made by his predecessors. Reade M. Camdens Britan. pag. 214. See Protoforestarius. The Court where this Justice fitteth and determineth, is called the Iustice seate of the Forest, held enery three yeares once, whereof you may reade your fill in M. Manwoodes first part of Forest lawes. pag. 121. & 154. 6 pag. 76. He is sometimes called Iustice in Eyre of the forest. See the reason in Instice in Eyre. This is the only Iustice that may appoint a deputy per statutum anno 32. H. 8. cap. 35.

Instices of Assis (Insticiaris ad capiendas Assisas) are such as were wont by speciall commission to be sent (as occasion was offered) into this or that county to take Assises; the ground of which polity, was the ease of the subjects: For whereas these actions passe always by Jury, so many men might not without great hinderance be brought to London, and therefore Justices for this purpose were by commission particularly authorised, and sent downe to them. And it may

feeme that the Inffices of the common plees had no power to deale in this kinde of bufines. untill the statute made anno 8. Rich. 2. cap. 2. for by that they are enhabled to take Affifes, and to deliver Gaols. And the Iustices. of the kings Bench have by that statute such power affirmed vnto them, as they had one hundred veares before that: Time hath taught by experience, that the beter fort of Lawyers being fittest both to judge and plead, may hardly be spared in terme time to ride into the country about such busines: and therefore of later yeares it is come to passe, that these commissions (ad capiedas Assisas) are driven to these two times in the yeare out of terme, when the Iuflices and other may be at leasure for these controuersies also: whereupon it is also fallen out, that the maters wont to be heard by more generall Commissions of Justices in Eyre, are heard all at one time with these Assises: which was not fo of ould, as appeareth by Bra-Cton, lib. 3. c.7. nu. 2. Habet etiam Iusticiarios itmerates de comitatu in Comit aum, quando q ad omnia placita, quandog, ad quadam specialia, sicut Assisas &c. & ad Gaolas deliberandas, quandog; ad unicam vel duas, Groon plures. And by this meanes the Iustices of both benches, being justly to be accoun-Pp 2 ted

red the fittest of all others, and others their affiftants, as also the Sergeants at law may be imployed in these affaires, who as grauest in yeares, fo are they ripest in judgement, and therefore likest to be voide of prociality, for being called to this dignity, they giue ouer practise anno 8. R. 2. cap, 3. but this alway to be remembred, that neither Iustice of either bench, nor any other, may be Inflice of Affise in his owne country, anno 8. Rich. 2. cap. 2. 6 anno 33. H. S. cap. 24. lastly note that in these daies, though the selfe same men dispatch busines of so divers natures, and all at one time, which were wont to be performed by diners, and at seuerall times, yet they doe it by feuerall commissions. Cromptons Iurisaictions. fo. 210. For those who be in one word called Iuftices of circuit, and twice euery yeare passe, by two and two, through all Englad, have one comission to take Assises, another to deliuer Goales, another of over and terminer. That Iustices of Affise, and Iustices in Eyre did aunciently differ, it appeareth an. 27.Ed. 3. cap. 5. and that Iuftices of Affise, & Iustices of goale delmery were diverse, it is euident by anno 4. Fd. 3. cap. 3. The oath taken by Iustices of affife, is all one with the oath taken by the Iustices of the kings bench. Ould abridgement of statutes. titulo Sacramentum Iusti-ciariorum. See Oath.

Instices of over and terminer. (Insticiarii ad audiendum & terminandum) were Iustices deputed voon some especiall or extraordinary occasion, to heare and determine some or more causes. Fitzberberd in his natura beruum faith, that the commission d'orer and terminer, is directed to certaine persons vpon any great affembly, infurrection, hainous demeanure, or trespasse committed. And because the occafion of granting this commission should be maturely wayed, it is prouided by the statute anno 2. Ed. 3. cap. 2. that no fuch commission ought to be graunted, but that they shalbe dispatched before the Iustices of the one bench or other, or Iustices errats, except for horrible trespasses, & that by the especial fauour of the King. The forme of this comission, see in Fitzh. natura breu. fol. 110.

Instices in Eyre (Insticiarii innerantes) are so termed of the
French (Erre. i. iter) which is an
old word, as (a grand erre.i.magnis iteneribus) prouer bially spoken, the vse of these in auncient
time, was to fend them with
commission into divers counties, to heate such causes elpecially, as were termed the

plees

plees of the crowne, and therefore I must imagine they were fo fent abroad for the ease of the Subjects, who must els haue beene hurried to the kings bench, if the cause were too high for the countie court. They differed from the Iustices of over and terminer, because they (as is aboue faid) were fent vpon some one or fewe speciall cases and to one place: whereas the Inflices in Eyre, were fent through the prouinces and counties of the land, with more Indefinite and generall commission, as appeareth by Bracton, lib. 3.cap. 11. 12. 13. and Britton cap. 2. And againe they feeme to differ in this, because the Iustices of over and terminer (as it is before faid) were fent yncertainly, vpon any vproare or other occasion in the country: but these in Egre (as M. Gwin setteth downe in the preface to his reading, were fent but every feuen yeare once; with whome Horn in his my rour of Instices, feemeth to agree. lib. 2. cap. queux poient estre actours, &c. and lib. 2.c. des peches criminels &c. al suyte de Roy, &c. and lib. 3.c. de Instices in Eyre. where he also declareth what belonged to their office. These were instituted by Henry the 2. as M. Camden in his Britannia witnesseth pag. 104. And Roger Hoveden, parte poste-

ri. annalium.fo. 313. b. hath of them these wordes: Iusticiary uinerantes constitutiper Henricum secundum. i. qui divisit regnum suumin sex partes, per quarum singulas tres Iusticiarios itinerantes constituit, quorum nomina hac sunt, &c.

Instices of Gaol delinery (Insticiarii ad Gaolas deliberandas) are fuch as are fent with commission, to heare and determine all causes apperteining to such, as for any offence are cast into the Gaol, part of whose authoritie is, to punish such, as letto mainprise those prisoners, that by lawe be not bayleable by the statute de finibus, cap. 3. Fitzh. nat. br.f. 251. I. Thefe by likelyhoode in auncient time, were fent to countries vpon this feuerall occasion. But afterward Inflices of Affife were likewife authorised to this, anno. 4. Ed. 3. cap. 3. Their oath is all one with other of the kings Iustices of either bench. Ould Abridgement of statutes.titulo Sacramentum susticiariorum. See Othe.

Iustices of labourers, were Iustices appointed in those times, to redresse the frowardnesse of labouring men, that would either be idle, or have vnreasonable wages. See anno 21. Eduardi 3. cap. primo. anno 25. eiust. cap. 8. & anno 31. eiustem cap. 6.

Pp 3

Insti-

Inflices of Niss prins are all one now a daies with Inflices of Affises for it is a common Adiournment of a cause, in the common plees to put it off to Such a day, Nesi prius Insticiarii venerint adeas partes, ad capiendas Assigns: and vpon this clause of Adjournment, they are called Iuffices of Nili prius, as well as Iustices of Affiles; by reason of the writ or action that they have to deale in: their commission you may see in Cromptons Iurifastious fol. 204. yet M. Crompton maketh this difference betweene them, because Justices of Affise haue power to giue iudgement in a cause, but Iustices of Ness prius. only to take the verdict. But in the nature of both there functions this feemeth to be the greatest difference, because Iustices of Nis prius haue to deale in causes personall as well as reall, wheras Inflices of Affife, in first acception, deale only with the possessory writs called Assiles. lustices of irial basto, alias of tray! baston, were a kind of Justices appointed by King Edward the first vpon occasion of great dif-

order growne in the Realme. during his absence in the Scottiffe and French warres, they are called in the ould nat. bre. f. s. 2. Inflines of triall Bafton, but by Holynshed and Stow in Edw. pri.

of Traile baston, of trailing or drawing the staffe as Holinshed faith. Their office was to make inquifition through the Realme by the verdict of substantiall luries vpon all officers, as Mayors Shyreeues, Bailifes, escheatours & others, touching extortion, briberies and other fuch greeuances. as intrusions into other mens lands, and Barratours that yfed to take mony for beating of men, and also of them whom they did beate; by meanes of which inquifitions many were punished by death, many by ransome, and so the rest flying the Realme, the land was quieted, & the king gained greate riches toward the supporting of his wars. Inquire farder of the name. Baston is though by some to be the beame of a paire of Scoales or waights . and this is in this place metaphorically applied to the iuste peifing of recompence for offences committed. My poore opinio is, that the etymology of this title or addition groweth from the French (treilles) i.cancelli, barres or letiles of what thing focuer, a grate with croffe bars, or of the singuler treille ji pargula, an houle arbour, a raile or forme, such as vines runne vpon, and (Beston) a staffe or pole, noting thereby that the Iuflices emploied in this commission, had au-

thoritie to proceede without any solemne judgement seate in any place either compassed in with railes, or made booth or tent-wise, set vp with staues or poales without more worke, wheresoeuer they could apprehend the malesactors they sought for See, lib. Assistarum. fol.

141.57. Instices of peace (Insticiarii ad pacem) are they that are appointed by the kinges commission, with others, to attend the peace in the County where they dwell: of whom fome vpon speciall respect are made of the Querum, because some busines of importance may not be dealt in without the presence or affet of them, or one of them. Of these it is but folly to write more, because they have so many thinges perteining to their office, as cannot in fewe words be comprehended. And againe Inflice Fitzherberd some time fithence, as also M. Lamberd and M. Crompton of late haue written bookes of it to their great commendatio, and fruitfull benefit of the whole Realme. See also Sir Thomas Smith de repub: Angl:lib: 2. cap. 19. They were called Gardians of the peace, vntill the 36. yeare of King Edward the third, cap. 12. where they be called Iuflices. Lamb. Eirenarcha. lib. 4. cap. 19

pag. 578. There outhe fee also in Lambard. lib. i. ca. 10.

Infices of peace, &c. within liberties, Inficiarii ad paceminfra libertates, be such in cities and other corporate townes, as those others be of any countie: and their authoritie or power is all one within their seueral precincts

anno. 27. H. 8. ca. 25.

Insticies, is a writ directed to the Shyreeue, for the dispatch of iustice in some especiall cause. wherewith of his owne authoritie he cannot deale in his Countie Courte. leb. 12. cap. 18. wherevpon the writ de excommunicato deliberando, is called a Iusticies in the old nat. bre.fol. 35. Also the writ de homine replegiando eodem: fol. 41. Thirdly the writ de secunda suteroneratione pastura.eodem: fol. 73. Kitchin fol.74.faith, that by this writ called Iusticies, the Shyreeue may hold plee of a greate summe, whereas of his ordinary authoritie he cannot hold plees but of summes vnder 40. shillings. Crompt on fo. 231. agreeth with him. It is called a Insticies, because it is a commission to the Shyreeue ad Insticiandum aliquem, to doe a man right, and requireth noe returne of any certificat of what he hath done. Bracton.lib.4.tracta.6.cap. 12.nn. 2. maketh mention of a Iustieres to the Shyreeue of London, in a case

case of Dower. See the newe booke of Entries, Institutes.

Instification (Instificatio) is an vpholding or shewing a good reason in courte, why he did such a thing as he is called to answere as to instific in a cause of Repleuin. Broke. titulo Repleuin.

KE

TI Eeper of the great Seale (Custos Magni Sigilli) is a L. by his office and called Lord Keeper of the great Seale of England, &c. & is of the Kings priuy Councell, vnder whose hands passe al charters. Commissions, and graunts of the King strengthened by the great or broad Seale. Without the which Seale, all fuch Instruments, by Lawe are of no force. for the King is in interpretation and intendment of Law, a Corporation, and therefore passeth nothing firmely, but vider the Said Seale. This Lord Keeper by the statute anno 5. Elizabetha Cap. 18. hath the same and the like place, authority, preeminence, Iurildiction, execution of Lawes, and all other Customes, Cómodities, and Aduantages, as hath the Lord Chaunceler of England for the time being.

Reeper of the priny Scale (Cuftos prinati Sigilli) is a Lord by his office, under whose hands passe all Charters signed by the Prince, before they come to the broad or great Seale of England. He is also of the Kings priny Councell. He seemeth to be called Clerke of the priny Seale. anno 12. Rz. Cap. 11. But of late daies, I have knowne none to beare this office, by reason the Prince thinketh good, rather to keepe this Seale in his owne hands, and by prinate trust to commit it to his principall Secretary, or some such one of his Councell, as he thinketh sit for that sunction.

Keeper of the Touch. anno 2. H. 6. cap. 14. feemeth to be that officer in the kings mint, which at this day is termed the master

of the affay. See Mint.

Keeper of the Forest (Custos Fo. resta) is also called cheife Warden of the Forest. Manwood part. pri. of his Forest Lawes, pag. 156. coc. & hath the principall gouernmet of all things belonging thereunto: as also the check of all officers belonging to the Forest. And the Lord Cheife Iustice in Eyre of the Forest, when it pleafeth him to keepe his luftice Seate, doth 40. daies before, fend out his generall Summons to him, for the warning of all vnder-officers, to appeare before him at a day affigned in the Summons. This See in Mamrood V. bi Supra.

King (Rex) is thought by M.

Cam-

Camden in his Britan. pag. 105. to be contracted of the Saxon word Cyninge, fignifiing him that hath the highest power & absolute rule ouer our whole Land. and thereupon the King is in intendment of Lawe cleared of those defects, that common perfons be subject vnto. For he is alwaies supposed to be of full age, though he be in yeares never fo young. Cromptons Iurisdictions. fol. 134. Kitchin. fol. i. He is taken as not subiect to death, but is a Corporation in himselfe that liueth euer. Crompton ibidem. Thirdly, he is about the Law by his ab solute power. Bracton lib. pri cap. 8. Kitchin fol. 1. and though for the beter and equall courfe in making Lawes he doe admitte the 3. estates, that is. Lords Spirituall, Lords temporall, and the Commons vnto Councell: yet this, in divers learned mens opinions, is not of constreinte, but of his owne benignitie, or by reason of his promise made vpon oath, at the time of his coronation. For otherwise were he a subject after a fort and subordinate, which may not bee thought without breach of duty and loyaltie. For then must we deny him to be about the lawe, and to have no power of dispenfing with any positive lawe, or of graunting especiall priviledges and charters vnto any, which

is his onely and cleare right, as Sir Thomas Smith well expresseth lib. 2. cap. 3. de Repub. Anglican. and Bracton. lib. 2. cap. 16. num. 3. and Britton, cap. 39. For hee pardoneth life and limme to offendours against his crowne and dignitie, except such as he bindeth himself by oath not to forgiue. Stawnf. pl. cor. lib. 2. cap. 35. And Habet omnia iura in manu sua. Bracton. lib. 2. cap. 24. num. prim. And though at his coronation he take an oath not to alter the lawes of the land: Yet this oath notwithstanding, hee may alter or suspend any particular lawe that seemeth hurtfull to the publike estate. Blackwood in Apologia Regum, c. 11. See Oath of the king. Thus much in short, because I have heard some to be of opinio, that the lawes be aboue theking. But the kings oath of old you may fee in Bracton, lib. 3. cap. 9. nu. 2. for the which looke in Oath of the King. The kings oath in English, you may see in the old abridgement of Statutes, titulo, Sacram. Regis. Fourthly, the kings only testimonie of any thing done in his presence, is of as high nature and credit as any Record. Whence it cometh, that in all writs or precepts fent out for the dispatch of lustice, he v-1cth none other witnesse but himselfe, alwaies ving these words vnder it, Teste me ipfo. Laftly. Q91

Lastly, he hath in the right of his crowne many prerogatives above any common person, be he never so potent or honourable: whereof you may reade your fill in Stamps. tractate v-pon the Statute thereof made, anno 17. Ed. 2. though that containe not all by a great number. What the kings power is, reade in Bratton.lib. 2. cap. 24. nu.prim.

King of Heradls (Rex Heraldorn is an officer at Armes, that hath the preeminence of this Society. See Herald. This officer of the Romans was called Pater

Patratus.

Kings Bench (Bancus Regius) is the Court or Judgment feate where the Kinge of England was wont to fitte in his owne person; and therefore was it moueable with the court or kings Houshould. And called Curia domini Regis, or Aula Regia, as M. Gwine reporteth in the preface to his readings; and that, in that and the Exchequer, which were the only courts of the king, untill Henry the thirds daies, were handled all maters of Iustice, as well Civill as Criminall. whereas the court of common plees might not be fo by the statute: anno 9. H. 3. cap. 11. or rather, by M. Gwins opinion, was presently vpon the graunt of the great charter

rally erected. This court of the Kings bench was wont in auncient times to be especially exercised in all Criminall maters & plees of the crowne, leauing the handling of private contracts to the cownty court. Glanuil. lib. 1. cap. 2. 3.4. & li. 10.cap. 18. Smith de Repub: Anglicana, lib. 2. cap. II. and hath president of it. the Lord Cheife Iustice of Eng. land, with three or foure Inflices assistaunts, four or fine as Fortescu faith, cap. 51. and officers thereunto belonging, the clearke of the crowne, a Pranatory or Protonotari, and other fixe inferior ministers or Atturnies. Camd: Britan: pag. 112. See Latitat: How long this court was moueable, I finde not in any wrighter: But in Brittons time, who wrot In K. Ed: the I.his daies, it appearethit followed the court, as M. Gwin in his faid preface wel observethout of him. See Instice of the Kings Bench.

Kings filmer, is properly that mony, which is due to the king in the court of common plees in respect of a licence there graunted to any man for passing a fine. Coke vol. 6. fo. 39. a. & 43. b.

Kintall of woad, iron &c.is a certaine waight of merchandize to the valew of a hundred, or formething under or ouer, according to the diuers uses of fundry nations. This word is mentioned

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by Plonden in the case of Reni-

ger and Fagoffa.

Knaue, is vsed for a man seruant. a. 14. Ed. 2. stat. 1. ca. 2. And by M. Verstigans judgemet, in his Restitutio of decaied intelligence. ca. 10. it is borowed of the dutch (enapa) chaue or knaue, which fignifie all one thing: and that is some kinde of officer or seruant: as (scild-cnapa) was he, that bore the weapon or shield of his superior, whom the latines call (armigerum) and the French men (escuyer.)

Knight (Miles) is almost one with the Saxon (Cnight.i. Administer) and by M. Camdens judgment, pag. 110. deriued from the same. with vs it signifieth a gentleman, or one that beareth Armes, that for his vertue and especially Martiall prowes, is by the King, or one hauing the Kings authority, fingled (as it were) from the ordinary fort of gentlemen, and raised to a higher accompt or steppe of dignity. This among all other nations, hath his name from the Horse: Because they were wont in auncient time, to serue in warrs one horsbacke. The Romans called them Equites, the Italians at these daies terme them Canallieri. The French men Chenalliers. The German, Reiters. The Spaniard Caualleros, or Varones a Caualto. It appeareth by the statute anno 1. Ed.

2. cap. 1. that in auncient times, gentlemen having a full knights fee, and houlding their land by knights seruice, of the king, or other great person, might be vrged by diffresse, to procure himselfe to bemade knight, when he came to mans estate for the answerable service of his Lorde in the Kings warres. To which point you may also reade M. Camden in his Britannia, pag. III But these customes be not nowe much vrged: this dignity in thefe dayes being rather of fauour bestowed by the Prince vpon the worthier fort of gentlemen, then vrged by constraint. The maner of making knights (for the dignitie is not hereditarie) M. Camden in his Britan. pag. 111. shortly expresseth in these words: Nostris vero temporibus, qui Equestrem dignitatem suscipit, flexis genibus educto gladio leuiter in humero percutitur. Princeps his verbis Gallice affatur: Sus vel sois Chenalier au nom de Dieu. id cft, Surge, aut, Sis Eques in nomine Der. The folemnitie of making Knights among the Saxons, M. Stow mentioneth in his Annals. pag. 159. See the priviledges belonging to a knight in Fernes Glorie of Generositie. pag. 116. Of these knights there be two forts: one spirituall, another temporall. Cassanaus in gloria mundi. parte 9. Confiderat. 2. of both these forts, and

Qq2

and of many subdivisions, reade him in that whole part. The remporall or second fort of knights M. Ferne in his Gloric of generofitie. pag. 103. maketh threefold here with vs. Knights of the fword, Knights of the Bath, and Knights of the foueraigne Order, that is, of the Garter: of all which you may reade what he saith. I must remember that mine intent is but to explain the termes especially of our com mon lawe. Wherefore fuch as I find mentioned in Statutes, I will define as I can. M: Skene de verb. significat. verbo Milites, faith, that in the auncient lawes of Scotland, Freeholders were called Milites. Which may feem to have bene a custome with vs also by divers places in Bracton, who faith, that knights must be in Iuries, which turne Freeholders doe serue.

Knights of the Garter, (Equites Garterii) are an order of knights, created by Edward the third, after he had obtained many notable victories, (king Iohn of Frannce, and king Iames of Scotland being both his prisoners together, and Hemy of Castile the bastard expulsed out of his Realme, and Don Petro being restored vnto it by the Prince of Wales, and Duke of Aquitane, called the blacke Prince) who for furnishing of this honorable

Order, made a choice out of his owne realme, and all Christendome of the best and most ex. cellent renowned Knights in vertues and honour, bestowing this dignitie upon them, and giuing them a blew Garter, decked with gold, pearle, and precious stones, and a buckle of gold to weare daily on the left legge onely, a kirtle, gowne, cloake, chaperon, a coller, & other stately and magnificall apparell both of stuffe and fashion, exquisite and heroicall, to weare at high feaftes, as to fo high and princely an order was meete. Of which Order, he and his fuccessours, kings of England, were ordained to be the Soueraignes, and the rest fellowes and brethren to the number of 26. Smith de Republ. Angl. libro primo. cap.20. I haue seene an auncient monument, whereby I am taught that this Honourable companie is a Colledge or a Corporation, having a common Scale belonging vnto it, and confisting of a Soueraigne Gardian which is the King of England, that alwaies gouernes this order by himselfe or his Deputie, of 25. Companions called Knights of the Garter, of 14. fecular Chanons that be Priefts, or must be within one yeare afrer their admission: 1 3. Vicars also Priests, and 26. poore Knights, that

haue

have no other sustenance or meanes of living but the allowance of this house, which is given them in respect of their daily praier to the Honour of God, and (according to the course of those times) of Saint George. There be also certaine officers belonging to this order, as namely the Prelate of the Garter, which office is inherent to the Bish: of Winchester for the time being the Chaunceler of the Garter, the Register, who is alwaies Deane of Windefour. The principall King at Armes called Garter, whose chiefe fun-Ction is to manage and marshall their Solemnities at their yearely feasts and Installations. Lastly, the Viher of the Garter, which (as I have heard) belongeth to an Viher of the Princes chamber, called Blacke rod. There are also certaine ordinances or Constitutions belonging vnto this Society, with certaine forfeitures, and sometime penances for the Breakers of them; which constitutions concerne either the folemnities of making thefe Knights, or their duties after their Creation, or the Priviledges beloging to fo high an order, but are too large for the nature of this poore Vocabularie. The fite of this Colledge, is the Castle of Windesoure, with the Chapel of Saint George,

erected by Edward the third, and the Chapter house in the faid Castell. Howbeit the yearly Solemnity or profession may be, and is, by the Soueraignes direction, performed at the Court, wherefoeuer it lyeth, vp o Saint Georges day . M. Camden faith, that this order received great ornament from Edward the 4 See Fearns glory of Generosity.pag. 120.Sce Garter. Hostinian in his booke de origine & progressu Monachatus, maketh mention of this honourable order, terming it by ignorance of our tongue ordinem Carteriorum equitum, and Charteriorum equitum. which you may reade. cap. 307.as also Bernardus Girardus in his historie, libr. 15. ca. 185.

Knights of the Bath (milites balnei, vel de balneo) are an order of Knights made within the Lists of the Bath, girded with a fword in the ceremonie of his Creation. Ferns glorie of generosity.pag.105. These are spoken of, anno. 8. Ed. 4. cap. 2. But I had an ould monument lent me by a freind, whereby it appeareth, that thefe Knights were foe called of a Bath, into the which (after they had bine shauen and trimmed by a Barber) they entred, and thence, the night before they were Knighted, being well bathed, were taken againe by two Esquiers

Qq 3 com-

commanded to attend them, dried with fine linnen cloathes, and fo apparelled and ledde through many solemne Ceremonies. viz. Confessing their sinnes, watching and praying all night in a church or chappell, with many other.) to the order of Knighthood the next day. So that by the same reason these seemed to be termed Knights of the Bathe, by which Knights made out of the feild in these daies are called knights of the Carpet, because in receiving their order they commonly kneele vpon a

Carpet.

Knights of the order of Saint Iohn of Ierusalems milites Santti Iohannis Heirosolumitani) were otherwise called the Knights of the Rhodes, being an order of Knighthood, that had beginning about the yeare of the Lord. 1120. Honorius then Pope of Rome. Cassanaus de gloria mundi, parte. 9. Considerarione 4. & M. Fern. in his glorie of Generosity:pag. 127. they had their primarie foundation and cheife aboad first in Hierusalem, and the in Rhodes, wheremany of the liued vnder their Principall called the M. of Rhodes. vntill they were expelled thence by the Turke, anne 1523. fithence which time their cheife seate is at Malta, where they have done

great exploits against the Infidels, but especially in the yeare 1595. These, though they had their beginning & elpecialest abode firit at Icrusalem and next in Rhodes, vet they encreased both in number and Reuenues. liuing after the order of Friers underthe Rule of Saint Augustine. and were dispersed into France. Spaine, Alvern, Campany, Englad. and Ireland. Of these mention is made in the fat: anno. 25.H.8.ca. 2.6 anno 26.eiuschem, cap. secundo. and it appeareth that they in England had one generall prior. that had the government of the whole order within England & Scotland. Reg. orig. fol. 20. b. But toward the ende of Henrie the eights daies, they in England and Ireland being found ouer much to adhere to the B. of Rome against the King, were suppressed, and their Lands and goods referred by Parlament to the Kings disposition.anno. 32. H. 8.cap. 24. The Occasion and the propagation of this order more especially described, you may reade in the Treatife intituled the Booke of Honour and Armes, lib.5.cap. 18. written by M. Rich. Thones.

Knights of the Rhodes, anno. 32. H.8:ca.24. See Knights of the order of Saint lohn.

Knights of the Temple otherwife called Templers) Templa-

plarii

plari was an order of Knighthood created by Gelasius the Pope, about the yeare of our Lord. 1117. and fo called, because they dwelt in a part of the buildings belonging to the Temple. These in the beginning dwelling not far from the Sepulchre of the Lord entertained Cristian straungers and Pilgrims charitably, and in their armour ledde them through the Holy Land, to view such things, as there were to be seene, without feare of Infidels adiovning. This Order continuing and increasing by the space of 200. yeares, was farre spred in Christendome, and namely here in England. But at the last, the cheife of them at Hierusalem, being (as some men fay) found to fall away to the Sazarens from Christianity, and to abound in many vices, the whole Order was suppressed by Clemens quintus, which was about King Ed.the 1. daics, and their substance given partly to the Knights of the Rhodes, and partly to other Religious. Cafsan: de gloria mundi, parte 9. Confid. 5. and See anno prim: Ed. 1.cap.42. Others wright that in truth their destruction grewe from leaning to the Emperour against the Pope of Rome, what soeuer was presended. Ioach. Stephanus De surisdictione. lib. 4. cap.10.nu. 18. See Temp'ers.

Knights of the Shire (Milites Comitatus) otherwise be called Knights of the Parlament, and betwo Knights, or other gentlemen of worth that are chosen in pleno Comitatu, by the free holders of enery Countie that can dispend 40. shillings per annum, and be Ressent in the shire, anno 10.H, 6.cap. 2.6 anno 1.H.s.cap. 1. vpon the Kings writ, to be fent to the Parlament, and there by their counsell to assist the common proceedings of the whole Realme. These when euery man that had a Knights fee, were custumarily constreined to be a Knight, were of necessity to be milites gladio cineti, for so runneth the tenour of the writ at this day. Cromptons Iurisdict.fol.pri. But nowe there being but fewe Knights in comparison of former times, & many men of great living in every county, Custome beareth that Esquiers may be chosen to this office.anno 23.H.6.ca.6. fo that they be resient within the countie, anno H. 6. cap. 7. & anno 1. H. s. cap. prim. For the observations in choice of these knights, see the statutes annoy. H. 4.cap. 15. & anno 11. eiusdem, cap. 1. 6 anno 6. H. 6. cap. 4. 6 anno 23. H. 6. cap. 15. and the new booke of Entries . verbo Parlament.nu. 1. Their expences during the Parlament are borne by the Countie:

County, anno 35. H. 8. cap.

Knight Marsiall (Marefeallia holpitii Regii) is an officer in the kings house, having inrisdiction, and cognisance of any transgression within the kings house and verge, as also of contracts made within the same house, whereunto one of the house is a partie. Register orig. fo. 185. a. b. of 6.191.b. whereof you may there reade more at large.

Knights fee, (Feudum militare) is so much inheritaunce, as is sufficient yearely to maintaine a knight with convenient revenew which in Henry the .3. daies was fifteene pounds. Camdeni Britan. pag. 111. or 680. acres of land, or 800. acres. eodem: But S. Thomas Smith in his Repub. Angl. lib. pri. cap. 18. rateth it at fourtie pound. And I finde in the statute for knights anno pri. Ed. 2. cap pri. that fuch as had 20. pound in fee or for terme of life per annum, might be compelled to beknights. M. Stome in his annals, pag. 285. faith, that there were found in England at the time of the Conqueror 60211. Knights fees: others fay 60215. whereof the religious houses before their suppression were possessed of 28015. Knights fee, is sometime vsed for the rent, that a knight payeth for his fee to his Lord, of whom

he houldeth. And this is an vn-certaine fumme, fome houlding by fortie shillings the sheild, some by twenty shillings as appeareth by Bracton. lib. 5. tractipri cap. 2.

Knighten Gylde, was a Gylde in London consisting of 19. knights, which king Edgar founded, giving vnto them a portion of void ground lying without the walls of the city, now called Portesoken ward. Stow. in his Annals, pag. 151.

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Aborariis, is a writ that lieth against such, as having not whereof to liue, doe resule to serue, or for him that resule the serue in summer, where he serued in winter: or ig. Register, fol. 189.b.

Laches, commeth of the French (lascher i. laxare, or lasche. i. strigidus, ignavus, slaccidus) it signifieth in our common law, negligence: as no laches shalbe adjudged in the heire within age, Litleton fel. 136. and oldnat. br. fol. 110. where a man ought to make a thing, and makes it not, I of his laches cannot have an Assisfe, but I must take mine action ypon the case.

Lagon, See Flotzon.

Laifed listes, anno i.R. 3. cap.8. Landtenent, anno 14. Ed. 3. stat. 1. cap. 3. & anno 23. eiusdem. cap. 1. &. 26.einsdem, stat. 5.eap. 2. See Terre-tenent, & anno 12. R. 2. cap. 4. & anno 4. H.4. cap. 8. it is is yned with this word (Possessor) as Synonymon. v. anno 1. H. 6. cap. 5. See Terretenent.

Lanis de crescentia Wallie traducendis abg; custuma, &c. is a writ that lyeth to the customer of a porte, for the permitting one to passe ouer wolles without custome, because he hath paid custome in Wales before, Register,

fol. 279.

Laple (Laplus) is a slippe or departure of a right of presetting to avoide benefice, from the originall patron neglecting to prelent within fix monethes, ynto the Ordinary. For we fay that benefice is in lapfe or lapsed, wherevnto he that ought to present, hath omitted or slipped his oportunitie, anno 13. Eliz. cap. 12. This lapfe groweth as well the Patron being ignorant of the auoydance, as privie, except onely vpon the refignation of the former Incumbent, or the deprivation vpon any cause comprehended in the statute, anno 13. Eliz.cap. 12. Panor:in cap. quia diversitatem.nu. 7. de concessiprabend. Rebuffus de devolut:in praxi beneficiorum:Lancelotus de collation: lib. I. Institut.canon: §. Tempus autem. In which cases the Bishop ought to give notice to the Patron.

Larceny (Laricinium) commeth of the French (Larcen i. furtum, detractio alicun) It is defined by West. parte. 2. Symbol.titulo Inditements, to be theft of perfonall goods or chatels, in the owners absence: and inrespect of the things stollen, it is either great or small. Great Larceny is, wherin the things stolne, though feuerally, exceede the value of 12. pence, and petit Larceny is when the goods stolne exceede not the value of 12.pence, hitherto M. West. But he differeth from Bracton. lib. 3. tract. 2. c. 32. n.1. Of this see more in Stawnf.pl. cer.l.1. cap. 15. 16. 17. 18. 19.

Laghslite, is compounded of (lah.i.lex) and (stre.i. ruptum) and signifieth multiamrupta velviolata legis. Lamb: explicat.of Saxonwords, verbo Multia.

Last, is a Saxon word, signifing a burden in generall, as also particularly a certaine weight: for as we say a last of hering, so they say Ein last corns, last wines, &c. thence commeth lastage, which see in Lestage. A last of hering conteineth 10. thousand, and 1. Ed. 3. stat. 2. cap. 2. 2 last of pitch and tarre, or of ashes, conteineth 14. barrels. anno. 32. H. 8. cap. 14. a last of hides, anno 1. Iac. cap. 33. conteineth 12. dozen of hides or skins.

Latitat, is the name of a writ whereby all men in personall Rr 1 cctions,

actions are called originally to the Kings bench. Fitz.nat.br.fo. 78. M. And it haththe same from this, because in respect of their beter expedition, a man is supposed to lurke, and therefore being ferued with this writ,he must put in securitie for his appearance at the day, for latitare, est se malitiose occultare animo frandandi creditores suos agere volentes. l. Fuicinus S. Quid sit latitare. T. Quibus ex causis in possessionem eatur: But to vnderstand the true original of this writ, it is to be knowne, that in auncient time, whileft the kings bench was moueable, and followed the court of the King, the custome was, when any man was to be fiewed, to fend forth a writ to the Shyreeue of the county where the Court lay, for the calling him in: and if the Shyreeue returned, non est inventus in baliva no tra, &c. then was there a fecond writ procured foorth, that had these words, (testatum est eum latitare, &c.) and thereby the Shyreeue willed to attach him in any other place where he might be found. Now when the tribunall of the Kings bench came to be fetled at Westminster, the former course of writ was kept for a long time, first fending to the Shyreeue of Midlesex to summon the party, and if he could not be

found there, then next to apprehend him wherefoeuer. But this feeming too troublesome for the subject, it was at last deuised, to put both these writs into one, and fo originally to attache the party complained of vpon a supposall or fiction. that he was not within the county of Middlesex, but lurking else where, and that therefore he was to be apprehended in any place elfe, where he was prefumed to lye hidden, by a writ directed to the Shyreeue of the county where he is suspected to be and by this writ a man being brought in, is committed to the Marshall of that court, in whose custodie when he is, then by reason he is in the same countie where the Kings bench is, he may be fiewed ypon an action in that court, wheras the original cause of apprehending him must be a pretence of some deceit or contempt committed, which most properly of old belonged to the cognizance of that court. I have bene enformed, that the bringing of these actions of trespas so ordinarily to the kings bench, was an inuention of Councelers, that because onely Sergeants may come to the common plees barre, found a meanes to fet themselves on worke in that court. The forme of this writ is fuch : Iacobus Dei

gratia Anglia, Francie, Scotia, & Hibernie Rex fides defensor, &c. Vicecomiti Cantabrigia salutem. Cum Vicecomitinostro Midlesexia nuper preseperimus, suod caperet Thomam T . et Wilielmum W. si innenti fussent in ballina sua, & eos saluo custodiret, ita quod baberet corpora ecrum coram nobis apud Westminster die veneris proximo post octavas Sancta Trinitatis, ad respondendum Ro berto R. de placito trangressionis; cuma; vicecomes noster Midlesexia, ad diem illum nobis returnamerit, quod pradicti Thomas I. & Wilielmus W. non sunt inventi in ballina sua, super quo ex parte tradicti Koberti in curia nostra coram nobis sufficienter testatum est, quod pradicti Thomas & Wilie!mus latitant & discurrunt in comitatu tuo. Idcirco tibi pracipimus quod capias eos, si invetifuerint in ballina tua. & eos salvo custodias ita quod habeas corpovacorum coram nobis apud Westminster, die Martis proximo post tres septimanas, eodem Trinitatis, ad respondendum prafato Roberto de placito pradicto, & habens ibi tune hoe breve . Teste Iohanne Popham apud Westminster. Roper. Launcegay, anno. 7. Rich. secundi.cap. 13.

Law(lex) cometh of the Saxon(lah) the generall fignificatio is plaine, only this I thought to note, that the law of this land

hath beene variable. For first Dunwallo Mu'mutins otherwife Molincius a Brittaine, that being Duke of Cornwall reduced the whole land formerly fenered by civile wars, into the state of a Monarchy, made certaine wholfome lawes, which long after were called Mulmutius lawes, and by Gyldus translated out of the Bryttish tongue into latine. Stow in his Annals, pag. 16. Of these there remaine vet certaine heads, recorded by our historiographers, as followeth. T. vt Deorum templa, & civitates hominum consequartur tantam dignitatem, ne quis illo confugiens extrahi possit, antequam ab eo grem laserat, veniam impetraverit. 2. vt huiusmodi privilegium immunitatis habeant etiam pfa via, qua ducunt ad templa & ad vrbes. 2. Imo & iumenta quog; illa, que res rustica subueniunt. 4. Denig; colonorum aratra ipsa tali prarogativa libertatis perfruantur. s. Hoc amplius, vt ne quaterra vacaret culturà, neve populus inopia rei frumentariæ premeretur, aut ea minueretur, si pecera sola occuparent agros qui ab hominibus coli debent. 6. Constituit quot aratra quelibet diecesis haberet: ac panam statuit iis, ter quos ille numerus aratrorum foret dimmutus: 7. Item vetuit, bovem aratorem pro debito tecunia, assignari debitoribus, si alia bona debitoris essent. Ita fore ne compen-Rr 2 dir

dii cansa homines pecuarii agros incultos redderent: sic etiam fore, ne quid earum rerum, quas natura prabet hominibus v squam deesse posset. Rich. Vitus historiarum Britannia.li. 2.mu. I. And of these lawes we finde no obscure remanets in our lawes now in vie: See Magna charta.ca. 1: & ca. 14. See San-Etnary. See Peace . Then was there a lawe called Merchenlage, whereby the Mercians were gouerned, being a kingdome in the heart of the land, conteining those countries, that be nowe called Northampton Thire, Leyce-Ster Shire, Rutland Shire, Lincolne shire, Nottingham shire, and Derby Shire. Camd. Britan.pag. 94. whose power was great in the Heptarchy of the Saxons, vntill at the last they were conquered by the west Saxons, and made subject to them. Polydor. in Angl. Hift. lib. 5. But whereas the name of these lawes sauoureth of the Saxons time, it is reported by others that Martia a very learned Queene aud wife to Quintelmus a Britton king, was the author of them, long before the Sazons set foote in England. Rich. Vitus. bifto. Britan.li. 3. nu. 14. who also saith that Alphred the Saxon King translated both these, and also those of Mulmutius into the English or Saxon tongue . Thirdly, there was the lawe of the west Saxons, called west Saxenlage, and the lawe of the Danes when they fer foote into the Realme. called Denelage. And of these lawes, Edward made one lawe, as fome write, whereby he ruled his kingdome. But M. Camd. vbi supra, speaking nothing of Mulmutius lawes, faith out of Gernasius Tilburiensis, that of the other three William the Conquerour chose the best, and to them adding of the Norman lawes, fuch as he thought good, he ordeined lawes for our kingdome, which we have at this present, or the most of them.

Lawe hath an especiall fignification also, wherein it is taken for that which is lawfull with vs. and not els where. As tenent by the courtese of England. anno 13. Ed. 1. cap. 3. and againe, to wage lawe, vadiare legem, and to make lawe, facere legem. Bracton lib. 3. tract. 2. cap. 37.is to chalenge a speciall benefite, that the lawe of this Realme affordeth in certaine cafes: whereof the first, fc. vadiare legem, is to put in securitie, that he will make lawe at a day affigned, Glanuile lib. 1. cap. 9. and to make law is to take an oath, that he oweth not the debt chalenged at his hand, and also to bring with him fo many men as the court shall affigne, to avowe vpon their oath, that in there conscieces he hath sworne truly. And this lawe is vsed in

actions

actions of debt, without specialty, as also where a man comming to the court, after such time, as his tenements for default be seised into the Kings hands, will denie himselfe to have beene fummoned, Glanuile lib. 1. cap. 9. 6 12. and See Bracton vbi supra. nu. 1.v. Kitchin. fol. 164 Seethe newe exposition of lawe Termes verbo (Lev) this is borrowed from Normandie, as appeareth by the grand Custumarie, cap. 85. But Sir Edward Cooke faith, it springeth originally from the judiciall lawe of god, li. 4. of his reports, Slades case, fol. 95. 6. alleaging the 22. cap. of Exodus, versu. 7. Whether fo or not, the like custome is among the Feudists: by whome they that come to purge the defendant, are called (Sacramentales.) libro feud. 1.tit. 4.5.3. & titulo 10. & titulo.26.

Lawe of armes (ins militare) is a law that giveth precepts & rules how rightly to proclaime warre, to make and observe leagues & truce, to fet vpon the enemie, to retire, to punish offendours in the campe, to appoint souldiers their pay, to give every one dignitie to his desert, to divide spoiles in proportion, and such lake, for farder knowledge wherof, reade those that write de inre

bells.

Lawe day, signissieth a leete

Cromptons Iurifatt.fol. 160. and the county court, anno 1. Ed.4. cap. 2.

Lawles man, is he qui est extra legem, Braiten lib. 3. trait. 2. cap.

11.nu.1.Sec Outlane.

Lame of Marque, See Reprifalles. This word is vsed anno 27. Ed. 3, stat. 2.ca. 17. and groweth from the German word March. i. Imes, a bound or limite. And the reason of this appellation is, because they that are driven to this lawe of reprifall, do take the goods of that people of whome they have received wrong, and cannot get ordinary instice, when they can eath them within their owne territories or precincts.

Lawe Merchant, is a priviledge or special lawe differing from the common lawe of Fugland, and proper to merchants and summary in proceeding, anno 27. Ed. 3. stat. 8.9. 19. & 20. anno 13. Ed. 1. stat.

tertio.

Lawing of dogs (expeditatio canum) See Expeditate. Mastifs must be lawed every three years.

Cromptons Iurifd.fol. 163.

Lease (lessa) commeth of the French (lasseri linguere, relinquere, omittere, permittere:) It signifies in our common lawe, a dimise or letting of lands or tenements or right of common, or of a rent or any hereditament

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vnto

vito another, for terme of veares or of life, for a rent referued. And a lease is either writren, called a lease by Indenture, or made by word of mouth, called a lease paroll. See the newe Termes of the lawe. The party that letteth this leafe, is called the leassour, and the partie to whom it is let, the leassee. And a leafe bath in it fixe points: viz. words importing a dimife, a leassee named, a commencement from a day certaine, a term of yeares, a determination, a referuation of a rent. Coke vol.

6. Knights cafe. fol. 5 s.a.

Leete (leta) is otherwise called a lawe day, Smith de Republ. Anglor. lib. 2. cap. 18. the word feemeth to have growne from the Saxon (Lethe) which as appeareth by the lawes of king Edward set out by M. Lamberd. num. 34. was a court or iurisdiction about the Wapentake or Hundred, comprehending three or foure of them, otherwise called Thrybing, and contained the third patt of a Prouince or Shire. These jurisdictions one and other be now abolished, and swallowed up in the Countie court, except they be held by prescription. Kitchin. fol. 6. or charter in the nature of a franchise, as I have said in (Hundred) The libertie of Hundreds is rare, but many

Lordes , together with their courts Baron , have likewife Leeres adjoyned, and thereby do enquire of such transgrefsions, as are subject to the enquirie and correction of this Court: whereof you may read your fill in Kitchin, from the beginning of his booke to the fifth chapter, and Briton. cap. 28. But this court, in whose maner soeuer it be kept , is accompted the kings court, because the authoritie thereof is originally belonging to the Crowne, and thence derined to inferiour persons, Kitchin fol. 6. Iustice Dyer saith, that this Leete was first derived from the Shyreeues Turn. fol. 64. And it enquireth of all offences vnder high treason, committed against the Crowne and dignitie of the king; though it cannot punish many, but must certifie them to the Iustices of Assise, per Statut. anno 1. Ed. 3. cap. vit. Kitchin fol. 8. but what things bee onely inquirable, and what punishable, see Kitchin in the charge of a court Leet, fol. 8.9.10.11.12.13.14.15.16. 17.18.19.20. See also the Statute anno 18. Ed. 2. The Iurifdiction of Bayliffes in the Dutchy of Normandie, within the compasse of their Provinces, scemeth to be the same, or very neare the same, with the power of our Lecte. Leete.cap.4.of the grand Cuffumarie.

Legacie (legatum) is a particular thing given by last will and testament. For if a man dispose or transferre his whole right or estate vpon another, that is called Hareditas by the Civilians, and he to whome it is fo transferred, is tearmed beres. Howbeit our common Lawyers callhim Heire, to whom all a mans lands and hereditaments doe descend by right of bloud. See Heire. See Hereditaments.

Leproso amouendo, is a writthat lyeth for a Parish, to remove a Leper or Lazar, that thrusteth himselfe into the company of his neighbours, either in church or other publike meeting, and communeth with them to their annovance or disturbance. Regi. orig. fol. 267. Fitz. nat. br. fol.

Lestage, alias lastage, (lastagium) proceedeth from the Saxon word (last.i.onus) and is a custome chalenged in Faires & markets for carying of things. Rastals Exposition of words: or a custome chalenged in cheapings or Faires. Saxon in the defcription of England, cap. 11. Lastage.auno 21. R.2. cap. 18. seemeth to be the Ballance of a shippe. Fleta tearmeth it Lesting, saying, quod significat acquietantia Lestagii.lib. 1. cap. 47. S. Lesting.

Leters of exchaunge, (litera Cambitoria, vel litera Cambii)

Regist. orig. fol. 194. A.

Leters patents (litera patentes) be writings fealed with the broad Seale of England, whereby a man is authorized to do or enioy any thing that otherwise of himselfe he could not. anno 19. H. 7. cap. 7. And they be fo tearmed of their forme, because they be open with the Seale hanging, readie to be shewed for the confirmation of the authoritie giuen by them. If any will fay, that leters patents may bee graunted by common persons, I will not greatly contend. For I find that to be true in Fitzh. nat. br. fol. 35. E. Howbeit they bee called rather patents in our comon speech, then Leters patents. Leters parents to make Denizens. anno 32. H. 6. cap. 16. yet for difference fake, the kings leters patents be called leters patents royall. anno 2.H.6.cap. 10. There is likewise a writ patent. Fitzh. nat. br. fol. I. & fegg.

Leuarifacias, is a writ directed to the Shyrecue, for the leuving of a Summe of money vpon lands and tenements, of him that hath forfeited a recognizance, &c. Regist. origin. fol. 298. b. 6

300.6.

Leuari facias damna de disseisitoribus, is a writ directed to the Shyreeue, for the leauying of

dam

dammages, wherein the diffeifour hath formerly beene condemned to the diffeisee. Regist.

fol. 214.b.

Leuari facias residuum debiti, is a writ directed to the Shyrecue, for the leuying of a Remanent of a debt vpon lands and tenements, or chatels of the debtor, that hath in part satisfied before,

Regist.orig.fol. 299.

Leuari facias quando vicecomes returnavit quod non habait emptores, is a writ commaunding the Shyrceue to fell the goods of the debtor, which he hath alreadie taken, & returned that he could not fell them, and as much more of the debtours goods, as will fatisfie the whole debt. Regist.org. fol. 300.a.

Leter of Atturney, (litera Atturnatus) is a writing, authorizing an Atturney, that is, a man appointed to do a lawfull act in our steedes, West parte prim. symbol. lib. 2. fett. 559. It is called in the civile lawe (mandatum, or procuratorium) There seemeth to be some difference betweene a leter of Atturney, and a warrant of Atturney. For whereas a leter of Atturney is fufficient,ifit be sealed and deliuered before sufficient witnesse: a warrant of Atturney must be acknowledged and certified before such persons, as fines bee acknowledged in the country,

or at the least before some Iustice or Sergeant, West parte 2. symbol. titulo Recoveries. sett. 1.F. See the statute, anno 7. R. 2. cap. 14.

Leters of Marque. See Marque and lawe of Marque. See Reprifals. See a. 14. Hen. 6. cap. 7.

Leters patents of summons for

debt:anno 9.H.z.cap. 18.

Leny (Lenare) commeth of the French (Lener.i. allenare, attellere) It is vied in our common law, for to set vp any thing, as to leny a mill. Kitchin, fol. 180. or to cast vp, as to leny a ditch. Old. nat. br. fol. 110.01 to gather and exact, as to leny mony. See Lenare

rifacias.

Libell (Libellus) literally fignifieth a litle booke, but by vse it is the original declaration of any action in the civill lawe. anno 2. H. 5. cap. 3. & anno 2. Ed. 6. cap. 13. it fignifieth also a criminous report of any man cast abroad, or otherwise vnlawfully published in writing, but then for difference sake it is called an infamous libel, famosus libellus.

Libello habendo. See Copia libel-

li deliberanda.

Libera Chasea habenda, is a writ Iudiciall, graunted to a man for a free chace belonging to his maner, after he hath by a Iury producd it to belong vnto him. Register Indiciall, fol. 36. & 37.

Liberate, is a warrant issuing out of the Chaucery to the Trea-

furer,

furer. Chamberlaines, and Barons of the Exchequer, or clerk of the Hamper, &c. for the payments of any annuall pension or other summes graunted vnder the broad feale. v. Brooke, titulo Taile d'Exchequer.nu. 4. orig. Reg. fol. 193. a. b. or lometime to the Thyreeue . c.n. br. f. 122. for the delinery of any lands or goods taken vpon sorfeits of a Recognisaunce. Fitzb. nat. br. fol. 131. & 122.v. Coke. li.4. Fulwods cafe. fo. 64. 66. & 67. It is also to a Gaoler from the Iustices for the deliuery of a prisoner, that hath put in baile for his appearaunce. Lamb. Eirenarch. lib. 2. cap. 2.

Libertate probanda, is a write that lyeth for such, as be chalendged for slaues, and offer to proue themselues free, to the Shyreeue, that he take security of them for the prouing of their freedome before the Iustices of Assis, and prouide, that in the meane time they be quiet from their vexations, that chalenge them for slaues. Fitz. nat. br fol.

Libertatibus allocandis, is a writ that lyeth for a citizen or Burges of any citie, that contrarily to the liberties of the city or towne whereof he is, is impleaded before the kings Iustices, or lustices errants, or Iustice of the Forest, &c. that refuseth or deferreth to allow his priviledge

77. See Natino habendo.

Orig. Regist. fol. 262. Fitz. nat. br. fol. 229.

Libertatibus exigendis in itinere, is a writ, whereby the king willeth the Iustices in eyre, to admit of an Atturney for the defence of another mans libertie, &c. before them. Regist. origin. fol. 19.6.

Libertas (libertas) is a priviledge held by graunt or prescription, whereby men enjoy some benefite or fauour beyond the ordinarie subject. Liberties royal what they be, see in Braston. lib. 2. cap. 5. Broke hoc situlo. See Franchise.

Librata terra, containeth foure oxegangs, and every oxegange 13. acres. Skene de verb. signif. verbo Bovata terra. See Farding deale of land.

Licence to go to election, (Licentia eligendi, Regist. fol. 294.) See Conge d'essire.

Licence to arise, (licentia surgendi) is a libertie giuen by the Court to a tenent, that is essoyned de malo lest in a reall action. For the lawe is, that in this case he may not arise out of his bed, or at least goe out of his chamber, vntill he haue bene viewed by Knights thereunto appointed, and so vpon view of his sicknesse, haue a day assigned him to appeare, or else lye, vntill he be licenced by the court to arise. And the reason of this is, as I

Sfi dak

takeit, because it may appeare, whether he caused himselfe to be essoyned deceitfully yea or not: And therefore if the demaundant can prooue, that he be seene out of his chamber, walking vp and downe his grounds, or els going abroad vnto any otherplace, before he be viewed or have licence of the court, he shalbe adjudged to be deceirfully effoyned, and to have made default. Of this fee Bracton, lib. 5. tract. 2. cap. 7. 10.6 12. and Fleta, li. 6. cap. 10. Horne in his fecond booke of his mirrour, ca. des Essoines, saith that the aduerse party may graunt licentiam furgendi to his aduerfary thus effoyned: And if he will not, the king vpon iust cause, may.

Licentia surgendi, is the writ whereby the tenent essoyned de malo leste, obteineth liberty to rise. See Licence to arise. See the

Register, fol. 8.

Licentia transfretandi, is a writ or warrant directed to the keepers of the Port at Doner, &c. willing them to let some passe quietly ouer sea, that hath formerly obteined the kings licence thereunto, Reg. Orig fol. 193. b.

Lieftenent (locum tenens) is a French word, fignifiing as much as (Legatus) it is compounded of (Lieu. i. Locus) and (tenin. i. tenere) It fignifieth with vs him, that occupieth the kings place, or

representeth his person, as the Lieferenent of the Kings of Ireland. anno 4. H. g. cap. 6. lo is it vsed anno 2. & 2. Ed. 6. cap. 2. whence that officer feemeth to take his beginning. But I read alfo in M. Manwoods first part of forest lawes. pag. 113. that the lord cheife Iustice in Eyre of the Forest: and the cheife warden alfo, have their Liefetenents in the forest. So that though a Leiftenent be most ordinary and most properly vfed for the Depute of the king: yet is it sometime exteded to ther deputesthat be but Liefetenents to the King.

Liefetenent of the Ordinance,

anno 39. El. ca. 7.

Lieve, (liquis) is a word borowed from the Feudists, and hath two feuerall fignifications in our common lawe: sometime being vsed for Liege Lord. anno 34.6 35. H. 8. cap. 1.6 anno 35. einschem, cap. 3. and somtimes for Liege man. anno 10. R. 2. cap. vnico. & anno 11. eiusaem. cap. prim. Liege Lord is he, that acknowledgeth no superious. Duarenus in Comment de Consuetud. Feuderum, cap. 4. num. 3. Liege man is he, that oweth legeancie to his liege Lord. M. Skene de verb. sign. verbo Ligeantia, faith, that it is derived from the Italian word, (liga)i. a band, league, or obligation, in whom read more of this mater.

Ligeancie,

Ligeancie, is such a duty or fealtie, as no man may owe or beare to more then one Lord. Idem eodem, num, 4. I find also this definition of ligeancie in the grand Custumarie of Normandy, cap. 12. Ligeantia eft, ex qua Domino tenentur vafalle fui centra omnes homines qui mori posunt & viuere, proprii corporis prabere consilis & auxilii invamentum, & ei le in omnibus innornos exhibers, nec ei adversantium partem in aliquo confouere. Dominus etians eosdem tenetur regere, prosegere & defensare: eosque secundum in a & consuetudines, & leges patria pertraitare: this is otherwise called legietas, Cassan: de Consuetud: Burgund: pag. 420. 6 421. This word is vsed in the statutes of our realm: as the kings liege people. anno 14.H.8.c. 2. Of the oath of leageancy, Iacobatius de Franchis in preludio feudorum, cap. 2. nu. 138. hath these words: Prastain boc Ligeum Homagumin manibus Regis vel imperatoris, genibus flexis, positis manibus unctis in manibus Domini, dicendo: Ego iuro homagiu tibi Dom.vt a modo sim homo ligeus vester, contra omnem hominem, qui potest vinere: verba sunt pulchra Andr. de Isern: in cap. I. in verbo omnem. Colum: prima. de nova forma fidelita: & hoc ligeum Homagium videmus prastaridomino Regi tantum: quia cum per idefficiatur bomo solius illius, cui uratur, et dixit

Hostiensis in cap. ex diligenti, de Symon: alii non potest prastari. i. quia illius (olius esse similiter non potest: Nonn. effe potest duorum in solidum. l. sive certo. §. si duobus vebiculum. w: commodati . secundum And: in dicto cap: 1.5. omnem. & Bald: bic in 7. dinif & Aluar. in 13. divisione.) Non lineum vero dicitur, quando quis surat fidelitatem Domino, excepta aliqua per-Sona, viz. domino superiori, vel antiquiore: Hactenus Iacobutius. where you may reade more touching this point: as also in Hotomans disputations de feudis, pag. 816.fol. 820. &c.

Ligeance (Ligeantia) See Liege It sometime signifieth the dominions or territoritie of the Liege Lord: as anno 25. Ed. 3. stat. 2. Children borne out of the Ligeance of the King.

Lierwitest muleta adulteriorum. Fleta li.1. ca. 47. It is vied for a libertie whereby a Lord chalengeth the penalty of one that lyeth vnlawfully with his bond woman. See Lotherwit.

Limitation of Affile (Limitatio assis) is a certaine time set downe by flatute, within the which a man must alledge himselfe or his auncester to have bin feifed of lands, fiewed for by a writ of Affife. See the statute of Merton, cap. 8. anno 20. H. 3. and West. 1. cap. 38. and an. 32. H. 8.c.2.6 an.1. M.1.p.c.5. See also

S 1 2 ThetoTheloals digest of writs lib. 10. cap. 2. So it is vsed in the old. nat. br. fol. 77. in these words: the writ de consuctudinibus & servicus lyeth, where I or mine Auncesters after the limitation of Assiste, were not seised of the Customes, &c. But before the Limitation of Assisted &c.

Lindwood, was a Doctor of both Civill and Canon lawes, and Deane of the Arches, he was Embassadour for Henry the flueth into Porting all, anno 1422. as appeareth by the preface to his commentarie vpon the Pro-

vincialls.

Litleton, was a lawyer of great accompt, living in the daies of Edward the fourth, as appeareth by Stawnf. prarogat: cap. 21. fol. 72. he wrota booke of great accompt, called Litletons tenoures, which Hotoman in his commentary de verbis feudalibus.verb. Feedum, thus commendeth. Stephanus Pasquerius excellenti vir mgenio, co inter Parisienses causidicos dicendi facultate prastans, libellum mihi Anglicanum Litletonum dedit, quo Fendorum Anglicorum lura exponuntur, ità incondite, absurde, & inconcinne scriptum, ut facile apparent verum effe, quod Poliderus Virgilius in Anglicabistoria scribit, Aultitiam in eo libro cum malitia & salumniandi studio certare.

Litera ad faciendum attorna-

tum pro secta facienda: see in the Regist: originall, fol. 172. Litera de annua pensione, eodem, 266. 6 307. Literapatens ad faciendum generale atturnatum quia infirmus, aodem, fol. 21. Litera per quam dominus remittit curiam suam Regi. eodem fol. 4. Litera de requestu, codem, fol. 129. Litera canonici ad ex. ercendam iurifactionem loco suo, fo. 205. Litera patentes ad conferendum beneficia, domino in remotis avente. fol. 305. Litera ad innotescedum recuperationem Regis de ecclesia omnibus quorum interest, fol. 305. Litera patentes regis quod Abbas ad totam vitam suam possit facere Atturnatos generales, f. 21. Litera procuratoria; fol. 205. 306. Litera Regia deprecatoria pro annua pensione, fol. 307. All these you may see in their places, & understand the meaning of them, as occasion shall require.

Liverie (Liberatura) is drawne from the French (livree i. insigne, gestamen, Centuriale discrimen, nota centurialis, turmalis) or els from (livrer.i.tradere) and accordingly hath 3. significations. In one it is vsed for a suite of cloth or other stuffe, that a gentleman giueth in coates, cloakes, hats or gownes, with cognisaunce or without, to his seruants or sollowers, anno 1. Rich. 2.cap. 7. & anno 20. einsdem, cap. 1. & 2. & anno 7. H. 4. ca. 14. &

anno

anno 8. Ed. 4. ca. 2. 65 anno 7. einsdem, ca. 14. 6 anno 13. eiusdem, ca. 2. 65 a. 8. H. 6. ca. 4. 65 anno 8. Ed. 4. ca. 3. & anno 3. H. 7. c1. 1. 6 12. 6 anno 11. eiusdem. ca. 2. & anno 19. einsdem, cap. 14. In the other fignification, it betokeneth a deliuery of possession vnto those tenents, which hould of the king in capite, or in knights service: for the king by his prerogatiue hath primier seysini (or the first possession) of all lands and tenements fo houlden of him. anno 52. H. 3. cap. 16.6 an. 17. Ed. 2. cap. 2. that is, when any fuch tenent dyeth, the king foorthwith entreth, and holdeth it untill the heire do his homage, and so pray his land to be delivered vnto him. Which act in the king is called Liverie: and liuerie in this fignification is either generall or speciall. Stamn. prarog. fol. 12. & cap. 3. Liuerie generall feemeth to be that, which is made in general words, and therefore may eafily be missued. Liverie speciall is that, which containeth in it a pardon of overfights committed by the tenent in fiewing out his liuerie, by which pardon the missuing is dispensed with. Starrf. pag. 67 cap. Traners. 20. See the Institutes and grounds of the common lawe. cap. 30. of generall and speciall liveries. Liverie in the third fignification is the writte which lyeth for the heire to obtaine the possession or seisin of his lands at the kings handes: which see in Fitz.nat. br. fol. 155.

Linerie of seisin (deliberatio sei-(ma) is a deliverie of possession of land or tenement, or other things corporeall, (for of things incorporeall no liuerie of seifin may be)vnto one that hath right or a probabilitie of right vnto them. For as Bracton faith : Traditio debet esse vestita & non nuda, sc. quod traditione pracedat vera cansa vel putatina, qua tranfeat Dominicum. lib. 2. cap. 18. num 2. West parte prim. symbol: li. 2. fect: 196. calleth this a ceremonie in the common lawe, vied in the conveyance of lands or tenements, &c. where you may fee the viuall forme hereof particularly fet downe, whereunto iovne the new exposition of law rearmes.

Lieutenent. See Lieftenent.

Lieutenent of the toner, seemeth to haue bene an officer under the Constable. anno Henr. 4. cap. 15.

Locus partitus, fignifieth a diuision made betweene 2.townes or counties, to make triall in whether the land or place in question lieth. Fleta lib. 4. cap. 15. num. 1.

Locall (localis) fignifieth in our common lawe, as much as tyed or annexed to a place certaine: Example: the thing is lo-

Sf 3 call

call and annexed to the Freehold. Kitchin fol. 180. and againe in the same place : An action of trespasse for battery,&c. is transitorie and not locall: that is, not needfull that the place of the batterie should bee set downe as materiall in the declaration: or if it be fet downe, that the defendant should trauerse the place set downe, by faving, he did not commit the batterie in the place mentioned in the declaration, and so avoide the action. And againe, fol. 230. the place is not locall: that is, not materiall to be fet down in certaintie. And the gard of the person and of the landes differeth in this, because the person being transitorie, the lord may have his ranishment de garde, before he be feifed of him, but not of the land, because it is locall. Perkins Graunts 30.

Lobbe, is a great kinde of north sea fish. anno 31. Ed. 3.

Stat. 3. cap. 2. Hons oned enad of

Lodemanage, is the hire of a Pilot for conducting of a ship from one place to another.

Loichfish, as Lob. Ling. Cod. an-

no 3 1. Ed. 3. Stat. 3. cap. 2.

Lode works, is one of the works belonging to the Stannaries in Cornwall: for the which reade M. Camdens Britan: in his title of Cornwal.pa. 1191 See Streme work.

Lollards (Lollards) were in ac-

compt and reputation of those times. Heretiks that abounded heere in England, in the daies of Edward the third, and Henry the fifth. anno 2. H. 5. cap. 7. whereof Weekleife was the cheife, as Stome faith in his Annalls: par. 425. who by his report, went barefooted and baflely clothed. to wit in base russet garments downe to the heeles: they preached, and especially against Monks and other religious men. Of thefe reade more in him and o. thers that writ of those times. The name Lindmood deriverha lelio: quia ficut lolium inficit legetes: sie Lollardi multociens inficiunt fideles simplices inter quos conuersantur. in ca. finali: de Hereticis verbo Lollardia: But Tritemius in his chronicle, deduceth the name from one Gualter Lolhard a German as the first author of that feet, living about the yeare of our redemption. 1315.

Lord (Dominus) by M. Condens opinion, is a contract (of Lafford) which is the Danish word for Dominus. It is a word of honour with vs, and is vied diuersly. Sometime being attributed to a man, that is noble by birth or creation, which fort are otherwise called Lords of the Parlament. Sometime to those that be so called by the courteste of England, as all the sonnes of a Duke, or the eldest sonne of an

Earle.

Earle. Sometime to men honorable by office, as lord chiefe Iustice, &c. and sometime to a meane man that bath fee, and fo confecuently the homage of tenents within his maner. For by his tenents he is called Lord, and by none other, and in fome places, for diffinction fake, he is called Landlord. It is vsed neuertheleffe by the Writers of the common lawe, most vfually in this signification. And so is it divided into lord aboue, and lord mesn: lord mesn, is he that is owner of a maner, and by vertue thereof hath tenents holding of him in fee, and by copy of court rolle, and yet holdeth himselfe ouer of a superiour Lord: who is called lord aboue, or lord Paramount, old nat. br. fol. 79. Although I thinke none simply to be accounted lord Paramount, but the Prince: because all hold either mediately or immediatly of him, and he of none. In this fignification I likewise reade Very lord, and Very tenent. eod. fol. 42. & Broke titulo Heriot. num. 1. where (I thinke) very lord, is he which is immediate Lord to his tenent: and him to be very tenent to that Lord, of whom he immediately holdeth. So that if there be lord aboue, lord mesn, and tenent, the lord aboue is not very lord to the tenent, nor the tenent very tenent to the lord about.

Lord in grosse. Fuz. nat. br. fol. 3. is he that is lord having noe maner, as the king in respect of his crown. idem, f. 5. F. See him also, fol. 8. A. B. where I finde a case wherein a private man is lord in grosse. viz. a man maketh a gift in tayle of all the land hee hath, to hold of him and dyeth his heire hath but a Seignorie in grosse.

Lorimers, anno 1. R. 3. cap. 12. is one of the companies in London, tha makeht bits for bridles of horses and such like. The name scemeth to be taken from the latine (lorum) and is else where writen Lorinors.

Lotherwit, alias Leverwit, is a libertie or priueledge to take amends of him that defileth your bondwoman without licence, Rastall: exposition of words. It is an arrends for lying with a bondwoman. Sax on in his description of England. cap. 11. Some thinke it should be rather writen (Legerwit) For (Leger) is the Saxon word for a bedde, or (Logherwit) of the old word (Logher) being of the same signification. See Bloodwit and Lyerwit.

Lusernes, Sce Furre.

Lushoborow, is a base coine vsed in the daies of King Ed. the 3.coined beyod Seas to the likenes of English money, and brought

brought in to deceive the King and his subjects. To avoide the which it was made treason for any man wittingly to bring in any such. an. 25. Ed. 3. stat. 4. cap. secundo.

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Acegriefs. alias Macegrefs. be fuch as willingly buie and fell stolen slesh, Britton, cap. 29. fo. 71. b. Cromptons Instice of

реясе. бо. 193. а.

Magna assisa eligenda, is a writ directed to the Shyreeue, to summon source lawful knights before the Iustices of Assise, there vpon their oathes to chuse 12. knights of the vicenage, &c. to passe vpon the great assise betweene A. plaintise and B. defendant, &c. Register original, fol. 8. a.

Magna Charta, called in English the great charter, is a charter conteining a number of lawes ordained the ninth yeare of Henry the third, and confirmed by Edward the first. The reason why it was tearmed Magna charta, was either for that it conteined the summe of all the writen lawes in England, or else that there was another Charter called the Charter of the Forest, established with it, which in quantitie was the lesser of the two. I reade

in Holin (bed, that King John to appeafe his Barons, yelded to lawes or articles of gouernment much like to this great Charter. but wee nowe have no eauncienter writen lawe, then this. which was thought to be so beneficall to the sublect, and a lawe of so great equitie in comparison of those, which were formerly in vie , that K. Henry the third was thought but hardly to yeld vnto it, and that to have the fifteenth peny of all the moueable goods both of the spiritualtie and temporaltie throughout his realme. Holinshed in Henry the third. And though this Charter confift not of aboue 37. chapters or lawes: yet is it of fuch extent, as all the lawe wee haue, is thought in some fort to depend of it. Polydorus and Holinshed, vbi supra.

Mahim (Mahemium) commeth of the old French (Mehaigne) as M. Skene faith, de verbosignif. verbo Machanium, and fignifieth a corporal hurt, whereby a man loofeth the vice of any member, that is or might bee any defence vnto him in batcl. The Canonists call it membriumtilationem, as the eye, the hand, the foote, the scalpe of the head, his foretooth, or, as some say, of any singer of his hand, Glamile lib. 14. ca. 7. See

Bra-

Bracton at large, lib. 3. tracta. 2. cap. 24. nu. 3. and Britton cap. 25. and Stawnf.pl.cor.lib. pri. ca. 41. and the newe exposition of law Termes, and the Mirrour of Iuflices, cap. d homicid. The grand Cultumaric of Normandie, cap. 6. calleth it Mahaignium, and defineth it to be enormem tasionem. All agree that it is the loffe of a member, or the vie thereof. And membrum, as Cassan: de consuetu: Burgund. pag. 168. defineth it out of Baldus, est pars corporis habens destinatam operationem in corpore. where you may reade more of this point. But if you will fee it largely discussed, look Voolinus de irregularitatibus, ca.4. 5.3.4.5. also read M. Skene vbi Surra.

Manour alias Manour, alias Memoure, seemeth to come of the French (Manier. i. manu tra-Etare, attrectare) or els of (Amener .i. abducere). It signifieth in our common lawe, the thing that a theefe taketh away or Realeth : as to be taken with the mainor.pl.cor fol. 179. is to be taken with the thing stolen about him: and againe, fol. 194. It was presented that a theese was delivered to the Vicount together with the Meinor: & thirdly, fol. 186. If a man be indited that he feloniously stole the goods of another, where, in truth, they bee his owne goods, and the goods bee brought into the court as the manour, and ie be demaunded of him, what hee faith to the goods, and he disclaime them: though he be quitted of the felonie, he shall loofe the goods, and againe. fol. 140. if the defendant were taken with the manour, and the manour bee caried to the court, they in anncient times would arraine him vpon the manour, without any appeale or indirement. I find this word vfed in the old. nat. br. fol. 110. in this fort: where a man maketh a thing by mainour, or leaving, or estopping, in such case he shall have Affise, where it signifieth handie labour, and is but an abbreviation of Main-ovrey.

Mainoure, sce Minouerye.

Mamprise (Manucaptio) is compounded of two French words (Main .i manus) & (prins. i. captus) which is a participle of the verbe) prendre i. capere, excipere, captare) It signifieth in our common lawe, the taking or receiving a man into friendly custody, that otherwise, is or might bee committed to the mercie of the prison, vpon securitie giuen for his forth comming at a day affigned: as to let one to mainprile. old nat. br. fol. 42.is to commit him to them, that undertake his apparence at shireth a ciffilnce allo be

the time appointed. And they that do thus vndertake for any. are called Mainpernouns, because they do receive him into their hands. pl. cor. fol. 178. Of this fort is the word (Mainpernable) which fignifieth him that hath committed such an offence, as by law he may be thus bayled. For in many cases a man is not mainpernable: whereof fee Broke, titulo Mainprise, per totum. and Fitz. nat. br. fol. 249. er legg.M. Manwood in the first part of his Forest lawes. pag. 167. maketh a great difference betweene Bayle and Mainprise. For he that is mainprised (quoth he) is alwayes faid to be at large; and to goe at his owne libertie out of ward, after the day is fet to mainprise, vntill the day of his appearance, by reason of the faid common fummons or otherwise. But otherwise it is, where a man is let to bayle to foure or two men, by the lord Iustice in eyre of the Forest, vntili a certaine day. For there he is alwayes accounted by the lawe to be in their ward and custody for the time. And they may, if they will, keepe him in ward, or in prison all that time, or otherwife at their will. So that he that is so bayled, shall not be said by the lawe to be at large, or at his owne libertie. Thus farre M. Manwood. The myrror of Justices maketh a difference also betweene pledges and mainpernours, faying, that pledges are more generall, & that mainpernours are bodie for bodie. lib. 2. cap. de trespasse venial. and lib. 2. cap. des pledges & mainpernours. When mainprifes may be granted, and when not, see Cromptons Iuttree of peace. fol. 136. &c. vique 141. and Lamberd. Eiren. lib. 3.cap. 3. pag. 336. 337. 338. 339. 340. See also Britton fol. 73. a. cap. Des pledges & mainpernours: the author of the Myrror of Iustices saith, that pledges bee those, that bayle or redeeme any thing but the body of a man, and that mainpernours be those, that free the body of a man. And that pledges therefore belong properly to reall and mixt actions, and mainpernours to personall.

Maintenance (manutentio vel manutenentia) is a French word, and fignifieth anypholding of a cause or person, metaphorically drawne from the fuccouring of a young child, that learneth to goe, by ones hand. In our common lawe, it is yled in the cuill part, for him, that secondeth a cause depending in suite betweene others, either by lending of mony, or making friends for either partie, toward his help. anno 32. Henr. 8. cap. 9. And when a mans act in this kinde is by lawe accounted Mainte-

nance,

nance, and when not, fee Broke, titulo Maintenance: and Kitchin. fol. 202. & fegg. and Fitz. nat. br. fol. 172, and Cromptons Iurefdiet. fol. 38. The writ that lyeth against a man for this offence, is likewise called Maintenance. Termes of the lawe, verb. Maintenance. Speciall maintenance Kitchin, fol. 204. feemeth to bee maintenance most properly fo tearmed. Of this fee Cromptons Inflice of peace. fol. 155.b. and the new booke of Entries. verbo. Maintenance. Maintenance, vid. Nous terminos Iuris.

Make (facere) signifieth in the common lawe, to performe or execute: as to make his lawe, is to performe that lawe which he hath formerly bound himselfe vnto, that is, to cleare himselfe of an action commenced against him by his oath, and the oathes of his neighbours. Old nat. br. fol. 161. Kitchin fol. 192. which lawe seemeth to be borowed of the Feudists, who call these men that come to sweare for another in this case, Sacramentales. Of whom thus faith Hotoman in verbis feudal. Sasramentales à sacramento i. iuramento dicebantur ii, qui quamuis rei, de qua ambigebatur, testes non fuillent, tamen ex eius, cuius res agebatur, animi sententia, in eadem que ille verba inrabant: illius videlicet probitate & innocentia confisi. Nam tum demum

rent. See the rest. The formall words vsed by him that maketh his lawe, are commonly these. Heare O ye suffices, that I doe not owe this summe of money demaunded, neither all nor any part thereof, in maner and forme declared, so helpe me God, and the contents of this booke. To make services or custome, is nothing else but to performe them. Old. nat. br. fol. 14. To make oath, is to take an oath.

Maletent, in the Statute called the Confirmation of the liberties of &c. anno 29. Ed. prim. cap. 7. is interpreteted to be a tolle of 40. shillings for every sacke of wooll. Stom in his Annals calleth it a Maletot. pag. 461 See also the Statute (de tallagio uon concedendo) an. 34.eins. stat. 5.

Malin . See Marle.

Manbote signifieth a pecuniary compensation for killing of a man. Lambard in his exposition of Saxon words verbo Astimatio. Of which reade Roger Houeden also, in parte poster. Suorum an-

nal. fol. 344. a.b.

Mandamue, is a writ, that lyeth after the yere and day, wheras in the meane time the writ called (diem clausit extremum) hath not bene sent out to the Excheatour, for the same purpose, for the which it should formerly have bene sent forth. Fuzh, nat. br. fol. 253. B. See Diem clausit extremum. Mandamus is also a charge to the shyreeue, to take into the kings hands, all the lands and tenements of the kings widowe, that against her oath formerly given, marieth without the kings consent. Register. fol. 295. b. See Widow.

Mandatum, is a commaundment iudiciall of the king or his Instices, to have any thing done for the dispatch of iustice, wherof you shall see diversity in the table of the Register iudicials.

verbo Mandatum.

Maner (Manerium) seemeth to come of the French (manoir .i. domicilium habitatio) M. Skene. de verbo. significatione. verbo Manerium, saich it is called Manerium. quasi Manurium, because is is laboured with handy worke by the Lord himselse. It signifieth in our common law, a rule or gouernmet, which a man hath ouer fuch as hould land within his fee. Touching the originall of these maners, it seemeth that in the beginning, there was a certaine compasse or circuit of ground, graunted by the king vnto fome man of worth (as a Baron or such like) for him and his heires to dwell vpon, and to exercise some jurisdiction more or lesse within that compasse, ashe thought good to graunt, performing him fuch feruices, and paying fuch yearely rent for the same, as he by his graunt required; and that afterward this great man parcelled his land to other meaner men, injoyning them againe fuch feruices and tents, as he thought good, and by that meanes, as he became tenent to the king, fo the inferiours became tenents vnto him. See Perkins Referuations 670. and Andrew Horns booke intituled the mirrour of Iustices li. I.ca.du. Roy Alfred. See the definition of a Maner. Fulb. fol. 18. And this course of benefiting or rewarding their nobles for good feruice, haue our kings borowed from the Emperours of Rome, or the Lombard kings, after they had fetled themfelues in Italy, as may well appeare by Antonius Contius in methodo feudorum,c.i. de origine, & libris Fenderum. And I finde that according to this our custome, all lands houlden in sce throughout Fraunce, are divided into Fiefz and arrierfiefze whereof the former are fuch as are immediatly graunted by the king, the fecod fuch as the kings feudataries doe againe graunt to others. Gregorii Syntagm. ib.6.ca. 5. mm. 3. But the inconstancy of mans estate, and the mutability of time, hath brought to paffe, that those great men, or their poiferity, have alienated thele Mansions and lands so given them

them by their Prince, and others that had none, have by ther welth purchased many of them: and againe that many for capitall offences have forfeited them to the king, and that thereby they still remaine in the crowne, or are bestowed againe vpon others fo that at these daies many be in the hands of mean men, fuch as by their skill in lawe or phisicke, by merchaundize, grazing, or fuch other good husbandry, haue gathered welth, and inabled themselves to purchase them of those, that by discent received the from their ancestors in greater aboundance, then wit to keepe them. But who fo euer possesseth these maners, the liberty belonging vnto them is reall and prediall; and therefore remaineth still, though the owners be changed. In these daies a maner rather fignifieth the lurifdiction and royalty incorporeal, then the land or fite. For a man may have a maner in groffe (as the law termethit) that is, the right and interest of a court Baron, with the perquifites thereunto belonging: and another or others have every foote of the land thereunto belonging. Katchin. fol. 4. Brooke hoc titulo per totum. Bracton. lib: 4. ca. 3 I. nn. 3. divideth manerium, in capitale & non capitale. See Bracton lib. 5. tracta. 5. ca. 28.nu. pri. See Fee:

The new expositor of law terms saith, that Manour is a thing compounded of divers things, as of a house, land earable, pasture, meadow, wood, rent, advouzen, court Baron, and such like. And this ought to be by long continuance of time, to the contrary whereof mans memory cannot discerne. &c.

Mansion (Mansio) as Bracton defineth it, lib. 5. cap. 28. nu. pri. is a dwelling, confifting of one or more houses without any neighbour. And yet he graunteth forthwith, that Mansio Mansioni possit esse vicinata. I finde it most commonly vsed for the lords cheife dwelling house within his fee, whether it have neighbours adioyning or not, otherwise called the capitall mefuage. Bracton. li. 2.c. 26. or the cheife maner place. Mansio amongst the auncient Romans, was a place appointed for the lodging of the Prince or fouldiers in their iourney, furnished with convenient entertainement by the neighbours adjoyning. And in this sence we reade primam mansionem, for the first nights lodging, and so in order. It is probable that this word (Mansion) doth in some construction signifie so much land, as Beda calleth familiamin his ecclefiafficall history. For Master Lambert in his explica. of Saxon words, ver. Hida

T t 3 terra.

he calleth familiam, others fithence call Manentem Manfam. (Manfus and Manfum) I reade of in the Feudists, which as Hotoman faith, in verbis feudalibus, est neque donous, neque area, neque hortus, sed ager certi modi ac mensura. And againe, in Commentaris feudorum, lib. p. tit. 4. vers. de Manso. Agri deserti & inculti certa mensura dabantur cu'toribus quasi in emphyteusin, vt culti & meliorati, feudi iure a vasallis possiderentur. In contractu autem vasalli nonnunquam incrementum.i. meliorationem omnem sibi recipiebant, sine per culturam, sine per inædificationem ea melioratio fieret, &c. And Cassaueres de consuet. Burg. pag. 1195. defineth it thus: Mansus est, quantum quis cum vno pari boum laborare possit. prouing it out of Bartolus in li. si ita. w. de auro es argen. legato: in fine legis. Reade M. Shene de verbo. sign. verbo Mansus. I reade the latine word (Mansia) in the same signification, as namely in the charter graunted by King Kanulphus to Ruchin the abbot of Abingden, which Sir Edward Cooke letteh downe in his booke de iure Regis ecclesiastico.

Manflaughter (Homicidium) is the vnlawfull killing of a man, without prepented malice: as when two, that formerly meant no harme one to the other, meet

togither, and vpon some sodaine occasion falling out, the one killeth the other. West par. 2. symb. titulo Inditements. sect. 44. It distereth from murder, because it is not done with foregoing malice: & from chauncemedly, because it hath a preset intet to kill. And this is felony, but admitteth clergie for the first time. Stanns, pl. cor. lib. 1. cap. 9. and Britton ea. 9. It is consounded with murder in the statute, anno 28. Ed. 3. ca. 11.

Mantyle (Mantile) commeth of the French (Manteau) and fignifieth with vs a long roabe, anno 24. Hen. 8. cap. 13.

Manucaptio, is a writ that lyeth for a man, who taken for supition of felony, and offering sufficient Bayle for his appearance, cannot be admitted thereunto by the Shyreeue, or other having power to let to mainprise. Fitzh nat. br. fel. 249. See Mainprise. How diversly it is vsed, see the Register original, in the table.

Manuel (Manualis) is a thing whereof present profit may be made. Stan of prarogat. fol. 54. And a thing not manuell is that, whereof no present profit may be made, but hereafter, when it falleth, ibid.

Manumission (Manum ssio) is a freeing of a villein or slave out of his bondage. The forme of

this

this in the time of the Conquerour. M. Lamb. in his apparovopia fel. 126. setteth downe in these words: Si quis ve!st seruum sum liberum facere, tradat eam vicecomiti, per manum dexteram, in pleno comitatu, of quietum illum clamare debet à ingo servitutis sua per manumissionem: & oftendat en liberas portas, & vias, & tradat illi libera arma, scilicet lanceam & gladium: & deinde liber homo efficitur. Some also were wont to be manumitted by charter of manumission. vide Brooke, titulo Villenage fol. 305. The newe expolitour of lawe Termes maketh two kinds of manumission: one expressed, an another implied. Manumissió expressed is, when the Lord maketh a deede to his villein to infranchise him by this worde (Manumittere) The maner of manumitting in old time was thus: The Lord in prefece of his neighbours tooke the bondman by the head, faying: I will that this man be free, and therewith should him forward out of his hands. Manumission implied, is, when the Lord maketh an obligation for paiment of mony to him at a certaine day, or fleweth him, where he might enter without suite, or granteth him an annuitie, or leaseth land voto him by deede, for yeeres, or for life, and fuch like.

Manutenentia, is the writ vsed in case of maintenance, Register originall, fol. 182. & 189. See Maintenance.

Marches (Marchia) be the bounds and limits betweene vs and Wales, or betweene vs and Scotland.anno. 24. Henry 8. cap. 9. Camd. pag. 4; 3. 6 606. and the marches of Scotlad are denided into west and midle marches anno 4. H. 5. ca. 7. & anno 22. Ed. 4. cap. 8. It seemeth to bee borowed from the German (March.i.limes) Camd. Britan. pag.27. or it may be from the French (Marque.i. signum) being the notorious distinction of two divers countries or territories. It is ysed in the statute anno 24. Hen. 8. ca. 12. generally for the precincts of the Kings dominions.

Marchers, be the noble men dwelling on the Marches of Wales or Scotland: who in times past (as M. Camden saith, pag. 453.) had their private lawes, much like as if they had beene Kings, which now be worne out. Of these Marchers you may reade, anno 2.H. 4.cap. 18. & anno 26. Hen. 8.cap. 6. & anno 1. Ed. 6.cap. 10. where they are called Lord Marchers. See anno 27. Hen. 8. cap. 26. howe these were extinguished.

Mareshall (Mariscallus) is a French word, fignitying as much as Tribunus Celerum or Tribunus militum with the auncient Romanes, or Hoxemagyos with the Grecians, or in navos, Tiraquel de Nobiletate, ca. 8.p.42.nu.17. The french word may seeme also (among many other that they haue, to proceede from the German Marschalk. i. equitum magister. which Hotoman in verbis fendalibus, verbo Marschalkus, deriueth from the old word (March) fignifiing a house, with whome agreeth Lupanus, de Magistratibus Francie, lib.pri. ca. Marchal-Lus Others make it of these two Saxon words (Mar.i. equus and (calch.i.prafectus) or 35 M. Verstegan faith, from (Mare) the generall appellation of all horses, as (hors) is now in Englishe, and (Scale) which, in the auncient language of the Netherlanders, he affirmeth to fignifie a kind of seruant, as Scalco, doth at this day among the Italians, being originally a Dutch word. with vs there be divers officers of this name: but one most noble of all the rest, who is called Lord or Earle Marshall of England, of whome mention is made in divers statutes, as anno. 1.H.4.ca. 7. 6 14. 6 anno. 13. Rich. 2. ca. 2. His office confifteth especially in maters of warre and armes, as well with vs as in other countries . whereof you may reade in Lupaniu vbi supra. and Tilius. li. 2. ca. de Conestabili,

Mariscallo. erc. But he that will knowethe office of our Lord Marshall, had neede beside the fewe statutes which concerne him to read his commission, and also to have acces to the Heradls. who out of their autiquities are able to discouer much, that by prescription belongeth vnto this office. The next to this is the Marshal of the Kings house. whose especiall authoritie is, according to Britton and M. Gwin in the preface to his reading, in the Kings place to heare and determine all plees of the Crowne, and to punish faults committed within the verge, & to heare and determine fuites betweene those of the kings houshold, and others within the verge. Cromptons Iurisdict. fol. 102. of him you may reade Fitzh. nat.br.fol. 241. B. and anno. 18. Ed.3. statut. 2. ca. 7. & anno 27. Ed. 3 Stat. 2. c. 6. & an. 2. H. 4. c. 23. & a. 15. H. 6.c. I. Fleta faith, that the office of the Marshall of the kings house belongeth to the Earle of Northf.in fee, and that he may appoint (with the Kings consent) a Knight vnder him to, execute the office. which office he also describeth to be especially to execute the indgements & decrees of the Steward & to have the keeping of the priloners.li. 2. c.p. 4. and read farder of his office in the go chapter

of.

of the faid booke, which is to dispose of the Lodging in the Kings houshold under the Chamberlaine, and to cleere the Verge of strumpers, &c. anno 5. Hen. 3. statut, 5. Then be there other inferiour officers of this name: as Marshall of the Justices in Eyre, anno 3. Ed. 1. ca. 19. Marshall of the Kings bench, anno s. Ed. 2. ca. 8. and this is he which hath the custodie of the prison, called the Kings bench in Southwarke. Fitzh. nat. br. fol. 251.I. And these inferiour Marshalls be either ad placitum, or in fee, Kitchin. fol. 143. I finde alfo in Fleta li. 2. ca. 15. mention of a Marshall of the Kings hall, whose office is, when the tables be prepared and clothes laide, to call out both those of the houshold and straungers, according to their worth, and decently to place them, to reject vnworthy persons, to knowe the number of the hall, and to testifie it at the next accompt, to see dogs kept out, to faue the almes from filching, to fee filence kept, and euery man competently serued with meate and drinke, and when the courte remoueth, to appointe every one of the houfhold his lodging. There is also a Marshall of the eschequer, an. 10.51.H. 3. fta. 5. to whome the courte committeth the custody of the kings debters during the

terme time, to the end they may be farder imprisoned, if they cleere not their debts. He also assigneth Shyreeues, escheators, customers, and collectors, their auditours before whome they shall accompt. He hath all inquisitions taken before escheators virtute officii, deliuered vnto him, to be deliuered by him to the treasurers Remembrancer.

Mareshalsee (Marescaltia) is the Court of the Marshall or (word for word) the seate of the Marsshall, of whome see Cromptons Invisited. 102. It is also vsed for the prison in Southwarke, the reason whereof may be, because the Marshall of the kings house was wont perhaps to set there in indement. See the statute anno 9.R.2.cap. s. & anno 2. Hen. 4. ca.23.

Martiall lane, is the law that dependeth ypon the voice of the king, or the kings leiuetenent in warres. For how be it, the king for the indifferent and equall temper of lawes to all his subiects, doe not in time of peace make any lawes but by the consent of the three estates in Parlament: yet in warres by reason of great daungers rifing of small occasions, he vseth absolute power: in fo much as his word goeth for law. And this is called Martiall law. Smith de repub: Angli: la. 2. c. 3. See Law of armes.

Mariage (Maritagium) fignifieth not onely the coupling together of man and wife, but also the interest of beltowing a ward or a widow in mariage. Magna charta, ca: 6. anno 9. He. 3. and Bracton lib. 2. ca. 3. and also it fignifieth land giuen in mariage, Bracton l. 2. ca. 34. 6 39. And in this fignification the fame authour faith, that Maritagium eft aut liberum aut servitio obligatum. li. 2. ca. 7. nu. 3. 6 4. Liberum maritagium dicitur, vbi dunator vult, quod terra sic data, quieta sit & libera ab omni seculari servitio, quodad Dominum feuds poffit pertinere: et ita quod ille, cui ficidata fuerit, nulum omnino inde faciat servitium v (q; ad tertum baredem, er vla: ad quartum gradumita quod tertius heres sit inclusious. See the rest. See also Skene de verbo. significatione, verbo Maritagum, who is worth the reading.

Maritagio amisso per defaltam, is a writ for the tenent in frank mariage, to recouer lands,&c. whereof he is desorced by another. Regist. fol. 171.

Maritagio forisfacto, is a writ. See Forisfactura Maritagii.

Marke, (merca) commeth of the Saxon (Mearc) which fignifieth a peece of mony worth thirty filuer pence. Lamb. explicat. of Saxon words. verbo, Mancusa: what it now fignifieth in our coyne enery man know-

eth. But in auncient times I find a merke of gold, which was the quantitie of eight ounces, Stores annals.pag. 3 2. and againe, pag. 691. 12. merkes of golde Troy weight, the which was 200. pounds of English mony. after which rate enery merke valued 16. pounds, 13. Millings, 4. pence. M. Skene de verbor. fignific. verbe. Merke. faith, that in tra-Hasu de ponderibus & mensuris, a Mercke fignifieth an ounce weight, or halfe a pound, wherof the dramme is the eighth part, like as the ounce is the eighth part of a marcke: citing Callaneus de consuet. Burgand. Rub. prim. S. 7. verbo. Solz Turnoys. hiis verbis. Solidus (inquit) in iure capitur pro auro, quorum 72. faciunt libram auri, & duodecim uncie faciunt libram es octo uncie merca.

Market (mercatus) commeth of the French (marche. i. emporium, forum nundinarium) it fignifieth with vs, the lame thing, and also the liberty or priniledge whereby a towne is enabled to keepe a market. Oldnat. br.fol. 149. So doth Bratton vie it, lib. 2. cap. 24. num. 6. & lib. 4. cap. 46. where he sheweth, that one market ought to bee diffant from another fex lencas & dimidiam, & tertiam partem dimidia. The reason thereof both he and Flein giueth in these wordes: Quia omnes rationabiles dieta confant ex 20. milliaribus. Dividatur ergo dieta in tres partes: prima aute matutina detur euntibus versus mercatum: secunda detur ad emendum & vendendum: que quidem sufficere debet omnibus nist sint forte mercatores statarii qui merces deposuerint & exposuerint venales, quibus necessaria erit prolixior mora in mercatu: E tertia pars relinquitur redeuntibus de mercatu ad propria. Et que quidem omnia necesse erit facere de die, non de nocte, propter insidias & incursum latronum, ve ommia sint in tuto, &c. lib. 4. cap. 28.5. Item refert.

Marle, is a kind of stone or chalke, which men in divers countries of this Realme, cast vpon their land to make it the more fertile. It is some where called Malm. anno 17. Edward. 4.

cap. 4.

Marque, seemeth to bee a French word fignifying notam, vel signum, or else to come from the German (march.i. limes) it fignifieth in the auncier statutes of our land, as much as reprisals, as anno 4. H. S. cap. 7. Marques and Reprisals are vsed as Synonyma. And leters of Marque are found in the same fignification in the fame chapter. The reason may be, because the griefes wherevpon these leters are fought and graunted, are commonly given about the bounds and limits of cuery contrey: or at least the remedie for the same is likest there to bee had by some sodaine inrode, & happing of such recompence of the injurie received, as may most conveniently be lighted upon. See Reprisals. See Marches.

Marquis (Marchio) by the opinion of Hotom. verbe Marchio, in verbis feudalibus, commeth of the German March.i. limes, fignifing originally as much as (Cu-(tos limitis) or (Comes & prafectus limitis) of these Zasius thus writech: de Marchione nihil compertu est nif guod Gothicum vocabulum putamus. And afterward thus: Huiusmodi Marchionum (sue vt nos appellamus) Margraphiorum origo in limitaneos, prapositos, sue duces referenda: Margraphis dicti quod limitibus, quos vulgo marken appellamus, graphii, id est prapositi fuerunt, &c. For in those teritories, that have naturally noe bounds of great strength or defenceahere is neede of wife and four mentoward their borders, for the keeping out of neighbour enemies. But here in England though we have a Lord warden of the marches northward, and a warden of the cinque ports toward the south east, and were wont to have Lo. Marchers between vs and Wales, that ferued this turne, yet those which we call Marquifes, are lords of more dignity, without any fuch charge

charge: and are in honour and accompt next vnto Dukes. At this day I know but one in England, and that is the Marquis of Winchester being of that noble familie of the Pamlets. See Caffanous de consuetud. Burg. pag. 15.

Marrow, was a lawyer of great accompt, that lived in Henry the feuenth his daies, whose learned readings are extant, but not in print. Lamb. Eiren. li. pri. cap. 1.

Marterns, see Furre.

Master of the Rols Magister rotulorum) is an Affiffat vnto the Lord Chauncelour of England in the high court of Chauncery, and in his abience heareth caufes there, and giueth orders. Crompt. Inrifd fol: 41. His title in his parent (as I have heard) is Clericus parue bage, custos rotulorum & domus conver forum. This domus converforum, is the place where the rols are kept, fo called because the lewes in auncient times, as they were any of them brought to christianity, were bestowed in that house feparaely from the rest of their nation. But his office feemeth originally to have sprong, from the fafe keeping of the Roules or records of inditements paffed in the kings courts, and many other things. He is called clerke of the rols, anno 12. R.2. ca. 2. and in Forte four his booke, cap. 24. and no where master of the rols, vntil anno 11. Hen. 7.6ap.20. and yet anno II. einsdem, cap. 25. he is also called clerk. In which respect, Sir Thomas Smith li.2.ca. 10. de Repub. Angl. well faith that he might not vnfiely be called (Custos Archinorum). He feemeth to have the bestowing of the offices of the fixe clerks an. no 14.6 15. Hen. 8. cap. 8.

Master of the mint, anno 2. Hen. 6. cap. 14.he is now called the Warden of the mint, whole

office, see in Mine.

Master of the court of Wards and Lineries, is the cheife and principall officer of the court of wards and hueries, named and affigned by the king, to whose custodie the feale of the court is committed. He at the entring vpon his office, taketh an oath before the Lord Chauncelour of England, well and truly to ferue the King in his office, to minister equal insticeto rich & poore, to the best of his cunning, witte, and power, diligently to procure all things, which may honefly and infly be to the kings advatage and profit, and to the augmentation of the rights and prerogatine of the crowne, truly to vie the kings feale appointed to his office, to endeauour to the vttermost of his power, to fee the king intly aunswered of all such profits, rents, reuenewes, and

iffues,

iffues, as shall yearely rise, grow, or be due to the king in his office from time to time to deliver with freed such as have to do before him, not to take or receiue of any person any gift or reward in any case or mater depending before him, or wherein the king shall be party, whereby any prejudice, loffe, hinderance, or disherison shall be or grow to the king, a. 3. H. 8.c. 33.

Master of the borse, is he that hath the rule and charge of the kings stable, being an office of high accompt, and alwaies beflowed vpon some Noble man both valiant and wife. This Officer vnder the Emperours of Rome, was called (comes facri (tabuli.) The Master of the horse is mentioned.anno 39. Eliz, cap. 7.6 anno prim. Ed. 6. cap. 5.

Master of the posts, is an Officer of the Kings court, that hath the appointing, placing, and displacing of all such through England, as prouide post horse for the speedie passing of the kings messages and other buin the through-fayre townes where they dwell: as alfo to fee that they keepe a certaine number of convenient hories of their owne, and when occasion is, that they provide others, wherewith to furnish such, as haue warrant from him to take post horses, either from or to the

feas, or other borders, or places within the Realme. He likewife hath the care to pay them their wages, and make their allowance accordingly, as he shall thinke meete. This officer is mentioned, anno 2. Ed. 6, cap. 3.

Master of the armorie, is he that hath the care and overfight of his Maiesties armour for his person or horses, or any other prouision or store thereof in any standing Armories: with command, and placing or displacing of all inferiour Officers thereunto appertaining. Mention is made of him. anno 39. E-

liz. eap.7.

Master of the lewel house, is an Officer in the Kings houshould, of great credit, beeing allowed bouge of court, that is, diet for himselfe and the inferious Officers. viz. Clerks of the Iewell house, and a special lodging or chamber in court, hauing charge of all place of gold, of filuer double or parcell guilt, vfed or occirpied for the Kings or Queenes board, or to any Officer of accompt attendant in court, and of all place remaining in the Tower of London, of chevnes and loose lewels not fixed to any garment. Mention is made of this Officer. anno 39. Eliz.cap. 7.

Master of the Kings houshould, (magister hospiti) is in his just title called grand Master of the

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kings

Kings houshould, and beareth the same office that he did, that was wont to be called Lord Steward of the kings most honorable houshould. anno 32. H.8.ca. 59. Whereby it appeareth, that the name of this Officer was then chaunged, and Charles Duke of Suffolke, President of the Kings Councell, then enioying that office, was so to be called euer after, so long as he should possesse that office.

Master of the Ordinance. anno 39. El.cap. 7. is a great Officer, to whose care all the Kings Ordinance and Artillerie is committed, being some great man of the Realme, and expert in marshall affaires.

Master of the Chauncery (Magifter Cancellaria) is an affiftant in Chauncerie to the Lord Chaunceler or Lord Keeper of the broad feale in maters of iudgement. Of these there be some ordinarie, and some extraordinarie: of ordinarie there be twelve in number, whereof some fit in court enery day thorough each Terme, and haue committed vnto them (at the Lord Chauncelers discretion) the interlocutorie report, and fornetimes the finall determination of causes there depen-

Master of the Kings musters, is a

martiallofficer in all royall armies most necessarie, as well for the maintaining of the forces complete, well armed and treined, as also for preuention of fuch fraudes, as otherwise may exceedingly waste the Princes treasure, and extreamly weaken the forces. He hath the ouerfight of all the captaines and bands. and ought to have at the beginning delivered vnto him by the Lord Generall, perfect lists and rolles of all the forces both horse and foot, Officers. &c. with the rates of their allowances figned by the Lord Generall, for his direction and difcharge, in fignifying warrants for their full pay. This Officer is mentioned in the flatue, anno 2. Ed. 6.cap. 2. and Muster master generall, anno 35. Eliz. cap. 4. who so desireth to reade more of him let him haue recourse to Master Dies his Stratioticos.

Master of the Wardrobe (magister garderobe) is a great and
principall officer in Court, hauing his habitation and dwelling house belonging to that office, called the Wardrobe neere
Puddle-wharfe in London. He
hath the charge and custodie of
all former Kings and Queenes
auncient robes, remaining in the
Tower of London, and all hangings of Arras, Tapestrie, or the
like, for his Maiesties houses,

with

with the bedding remaining in standing wardrobes, as Hampton court, Richmond, &c. He hath also the charging and deliuering out of all either Veluet or Scarlet allowed for liueries, to any of his Maiesties seruants of the privile chamber, or others. Mention is made of this officer. anno. 39. Eliz ca.7.

Mater in deede, and mater of record, are said to differ . old.nat. br. fol. 19.where mater in deede, feemeth to be nothing elfe, but a truth to be prooued, though not by any Record: and mater of Record, is that which may be proued by some Record . For example, if a man be fiewed to an exigent, during the time he was in the kings warres, this is mater in deede, and not mater of record. And therefore (faith the booke) he that will alledge this for himselfe, must come, before the Scire facias for execution be awarded against him For after that, nothing will ferue but mater of Record ; that is, iome errour in the processe appearing voon the Record. Kitchin fol. 216. maketh also a difference betweene mater of Record, and a specialitic, and nude mater; where he faith, that nude mater is not of fo high nature, as either a mater of Record for a speciality, otherwise there called mater in deede; which maketh meeto thinke, that nude mater is a naked allegation of a thing done, to be proued only by witnesses, and not either by Record, or other speciality in writing vnder scale.

Mauger, is shuffied up of two French words (Mal) and (Gre) id est, animo iniquo) it signifieth with us as much as in despight, or in despight of ones teeth. as the wife mauger the husbande, Litleton fol. 1 24 that is, whether the husband will or not.

Meane (Medins) fignifieth the middle betweene two extreames, and that either in time or dignitie. Example of the first: His action was meane betwixt the disseis made to him and his recourse: that is in the interm. Of the second there is Lord Meane and Tenent. See Mess.

Meafe (Niesuagium) seemeth to come of the French (Masson) or rather (Meix) which word I finde in Cassanaus de consuetu. Burgund pag. 1195. and interpreted by him Mansus what Mansus is, see Mansio. It signifieth a house. Kitchin fol. 239; and Fitzh. nat. br. fol. 2. C. See Mesuage.

peace, fol. 193 is that which Bration calleth (medletum) li. 3. tract. 2.ca. 35. It feemeth to fignific quarels, scuffling, or brawling, & to be derived from the French (mester).i. miscere, turbare.

Meere (Merus) though an Adiectiue, yet is it vsed for a substantine, signifiing meere right. Owld nat. br. fol. 2. in these words. And knowe yee, that this writte hath but two issues: that is to say, ioyning the mise vpon the meere. And that is, to put himselfe in the great affise of our Souerainge Lord the King, or to ioyne battell. See Mise.

Mesurement. See Admesure-

ment.

Medietas lingua, fignifieth an enquest empaneled vpon any cause wereof the one halfe confisteth of Denizens, the other of straungers. It is called in English the halfe tongue, and is vsed in plees, wherein the one party is a straunger, the other a denizen. See the statute. anno 28. Ed. z.ca. I z. G. anno, 27. eiusdem, statu: 2.ca. 8. commonly called the statute of the Staple. er anno. 8. H. 6. ca. 29. 6 anno . 2. He. 5.ca. 2. G. anno. 1 1. He. 7.ca. 21.6. anno. 1.6.2. Phi. 6. Mar. ca.8. And before the first of these statutes was made, this was wonte to be obteined of the King by graunt made to any company of straungers, as Lombards, Almaines, &c. Stawnf. pl. cor.lib. z.ca. 7.

Medio acquietando, is a writ iudiciall, to discraine a lord for the acquiting of a meane Lord from a rent, which he formerly acknowledgeth in court not to belong vnto him. Register indicial, fol. 29. b.

Melius inquirendo, is a writ that lyeth for a second inquiry, as what lands and tenements a man dyed seised of, where partiall dealing is suspected vpon the writ, Diem clause extremum.

Fitzh. nat. br. fol. 255.

Merchenlage, was one of the three forts of lawes, out of which the Conquerour framed lawes vnto vs, mingled with those of Normandy. Camd. Britan. pag. 94. who also, pag. 103. Theweth that in the yeare of our lord 1016. this land was divided into three parts, whereof the west Saxons had one, governing it by the lawes called Welt Saxon lawes, and that conteined these nine shyres, Kent, South fex, South. rey, Barke Shire, Hamshire, Wil-Shire. Somerset, Dorset and Deuonfoire. the second by the Danes, which was gouerned by the lawes called Denelage, and that conteined these fifteene shires, Yorke, Darby, Notingham, Leycester, Lincolne, Northampton, Bedford, Buckingham, Hereford, Effex, Midlefex, Northf. Southf. Cambridge, Huntington. The third was possessed and gouerned by the Mercians, whose lawe was called Merchenlage. which were thele

eight, Glocester, Worcester, Hereford, Warwicke, Oxenford, Chester, Salop, and Stafford. See Laxe.

Mercy (Misericordia) significant the arbitrement or discretion of the King or Lord, in punishing any offence, not directly centured by the law. As to be in the gricuous mercie of the king. anno 11. H. 6. cap. 6. is to be in hazard of a great penaltic. See Misericordia.

Measondue, (domus Dei) commeth of the French (maison de dien) by which names divers Hospitals are named. You find the word, anno 2. & 3. Philip. Mar. cap. 23. in fine.

Mese, See Mease.

Mesn (medius) seemeth to come from the French (mainfne . i. minor natu) it fignifieth in our common lawe, him that is lord of a maner, and thereby hath tenents holding of him, yet holding himselfe of a superiour Lord. And therefore it seemeth not absurdly to be drawne from the French (mamsne) because the Lordship is created after the higher, whereof he holdeth. Mcsn alfo fignifieth a writ, which lyeth where there is Lord, mesn, and tenent, the tenent holding of the mesn by the same services, whereby the mesn holdeth of the Lord, and the tenent of the mesn is distrained by the superi-

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our lord, for that his service or rent, which is due to the mesn. Fitz. nat. br. fol. 135. See

Mesnaltie.

Mesnaltie (me dietas) commeth of Mesn, and signisieth nothing but the right of the mesn: as, the mesnaltie is extinct. old nat. br. fol. 44. if the mesnalty descend of the tenent. Kutchin fol. 147. For farder vnderstanding wherof, take these words out of the Custumarie of Norm. Medietate tenentur feuda, quando aliqua persona intervenit inter Dominum & tenentes. Et hoc modo tenent omnes post nati, mediante ante nato.

Messenger of the Exchequer, is an Officer there, of which forte there be foure in that court, that be Pursuyvants attending the lord Treasurer, to cary his leters and precepts. See Pursuyvant.

Mesuage (mesuagium) is a dwelling house. West part. 2. symbol. titulo. Fines. sect. 26. But by the name of a mesuage may passe alfo a Curtilage, a garden, an orchard, a doue house, a shoppe, a mill, as parcell of an house, as he himselfe confirmeth out of Bra-Cton. lib. 5. cap. 28. fect. prim. and Plonden fol. 199. 170. 171. and of himselfe he auoucheth the like of a cotage, a tost, a chamber, a celler,&c. yet may they be demaunded by their fingle names. Mesuagium in Scotland, fignifieth the principall dwelling

Xx 1 place

place or house within a Barony, which in our land is called a maner-house. Skene de verb. significat. verbo, Mesuagium, where he citeth Valentine Leigh, that in his booke of Suruey he affirmeth Mesuagium to be the tenement or land earable, and the dwelling house or place, or court hall thereof, to be called the site, in Latine called Situs.

Mile (milliare) is a quantitie of a thousand paces, otherwise deferibed to containe eight furlongs, and euery surlong to conteine forty lugs or poles, and euery lugge or pole to containe 16. soote and a halfe. anno 35.

El. cap. 6.

Mildernix. anno I. Iacob. cap.

24.

Mindbruck, is hurting of honour and worship. Saxon in his description of Engl. cap. 71.

Miniuer. See Furre.

Munouery. anno 7. R. 2. cap. 4. feemeth to be compounded of two French words (main.i.manus and (ouvreri. operari) and to fignific fome trespasse or offence committed by a mans handie worke in the Forest, as an engyn to catch Deere. Britton vseth the verbe (Meinoverer) for to occupie and manure land. cap. 40. and cap. 62. main-ovre, for handyworke. It is not vnlike, that our English (manure) is abbreuiated of the French.

Mint. commeth of the Germane word, (meunk, i. pecunia. moneta) and it fignifieth with vs. the place where the kings covne is formed, be it gold or filuer. which is at this prefent, and long hath bene, the Tower of London, though it appeare by divers flories, and other antiquities, that in auncient times the mint hath bene also at Caleis, an. 21.R. 2. cap. 16. & anno 9 Hen. 5. fat. 5. cap. 5. The Officers belonging to the mint, have not bene alwaies alike. At this present they seeme to be these: The Warden, who is the chiefe of the rest, and is by his office to receive the filuer of the Goldfmiths, and to pay them for it, and to overfee all the reft belonging to this functio. His fee is an hundred pounds per annum. The master-worker, who receineth the filuer from the Warden, caufeth it to be melted, and deliuereth it to the moniers, and taketh it from them againe, when it is made. His allowance is not any fet fee, but according to the pound weight. The third, is the Controller, who is to fee that the mony be made to the just affile, to ouerfee the officers, and controll them, if the money be not as it ought to be: his fee is 100. merkes per annum. Then is the Master of the Assaye, who weigheth the filuer, and feeth whether

whether it be according to fandard: his yerely fee is also an hundred merkes. Then is the Auditour to take the accompts. and make them vp Auditor-like. Then is the Suruevor of the melting, who is to fee the filuer cast out, and not to be altered after it is delivered to the melter: which is after the Assay-master hath made triall of it. Then is the Clerke of the Irons, who seeth that the Irons be cleane, and fit to worke with. Then the Grauer, who graueth the stampes for the monies. Then the Smyters of Irons, who after they be grauen, smiteth them vpon the money. Then the Melters, that melt the Bullion, before it come to the coyning. The the Blanchers, who do aneale, boyle, and cleanse the money. The Porter, who keepeth the gate of the mint. The Prouost of the mint, who is to prouide for all the monyers, and to ouerfee them. Lastly, the monvers, who are some to sheere the money, some to forge it, some to beate it abroade, some to round it, some to stampe or coyn it. Their wages is not by the day or yeare, but vncertaine, according to the weight of the money coyned by them. Other officers that have benein former time, are faid nowe to becout of vie.

Misauenture, or misaduenture, commeth neere the French (mefaduenture .i. infortunium.) In our common law, it hath an especiall fignification for the killing of a man, partly by negligence, and partly by chaunce. As if one thinking no harme, diffolutely throweth a stone, where with he killeth another: or shooteth an arrow. &c. For in this case he committeth not felony, but onely loofeth his goods, and hath pardon of course for his life. Stawn.pl. cor.li. 1. ca. 8. Britton ca. 7. distinguisheth betweene Auenture and misauenture. Auenture he maketh to be meere chaunce, as if a man being vpon or neere the water, be taken with some sodaine ficknes, and so fall in, and is drowned, or into the fire, and be burned to death. Misauenture he maketh, where a man commeth to his death by some outward violence, as the fall of a tree, or of a gate, the running of a cartwheele, the Aroke of a horse, or such like. So that misauenture in Stannfords opinione, is construed somewhat more largely, then Britton vnderstandethit. West parte. 2. Symbol. titulo Inditement, felt. 48. maketh homicide casuall, to be meerely cafuall or mixt. Homicide by meere chaunce, he defineth lett. 49. to be, when a man is flaine by meere fortune, against the Xx 2 mind

minde of the killer; as if one hewing, the axe flicth of the hafte, and killeth a man. And this is all one with Brittons mifauenture. Homicide by chaunce mixed he defineth sett. 50. to be, when the killers ignorance or negligence is ioyned with the chaunce: as if a man loppe trees by an high way side, by which many vsually trauell, and cast downe a bowgh not giving warning, &c. by which bowgh a man passing by is slaine.

Miscontinuance, Kitchin fol.

231. See Discontinuance.

Mile (mila) is a French word fignifiing as much as (expensum) in latine, and the latine word (Mifa) is so vscd in Kitchin fol. 144. and in West. parte. 2. Simbol. titulo, Proceedings in chauncery, set. 21. F. It is vsed anno. 2. 6 3. Ed. 6. ca. 36. for a fomme of mony paid by the Kings tenents in certaine counties in Wales according to their feuerall customes. In the statute 33. H. 8. ca. 13. it is vsed plurally, for certaine custumary gramities sent to to the Lord Marchers of Wales, by their tenents, at their first comming to their lands. And anno 4. 6 5. Phil. & Mar. ca. 1.1. mise is vsed in an action of right or property, for the point whereupon the parties proceede to triall, either by Affise or battaile: as issue is in an action personall; if

the Mife be vpon battell. Litleton fol. 102. and in the old nat. br. fol. 2. you have these words. Know yea that this writ hath but two iffues: that is to fay, joyning the mise vpon the meere, and that is. to put himselfe into the great Affise of our soueraigne Lord the King, or to joyne battaile. See anno 37. Ed. 3. EA. 16. To iovne the mise vpon the meere. is as much to fay, as to joyne the mise vpon the cleare right, and that in more plaine terms is nothing elfe, but to joyne vpon this point, whether hath the more right, the tenent or demaundant, Litleton. li. 3.ca. 8. foll. 101.b. This word in some other place is vsed for a participle, signifing as. much as (cast or put upon) in english, which appeareth by S. Ed. Cokes report in Saffins case.vol. 6. fo. 124.a.

Misericordia, is vsed in the common law, for an arbitrary punishment. Bracton li. 4. tracta. 5. ca. 6. in these words. Itemsiquis in misericordiam inciderit pro disseisma, non remanebit misericordian exigenda, si ille qui amiserit, quasimerit conuictionem. Kitchin. sol. 78. out of Glanuile saith thus, Est autem misericordia, quia quis per iuramentum legalium hominum amerciatus est, ne aliquid de suo honorabili contenemento amittat. which saying you have in a maner word for word in Glanvile,

lib.g.

lib. 9. cap. II. Fitzberbert faith, that it is called misericordia, because it ought to be very moderate, and rather lette then the offence, according to the tenure of the great charter. cap. 14. This faith Fitz. in his nat. br. in the writ De moderata milericordia, fol. 75. A. I. Misericordu is to be quit of Milericors, that is, to be discharged of all maner of amercements, that a man may fall into within the Forest. Crompton. Inrifd. fol. 196. See Amerciament. See Mercy, and Moderata misericordia.

Miskenning. i. chaunging of speech in court. Saxon in the def-

cription of Engl. cap. 11.

Missioner, is compounded of the French (mes) which in composition alwaies significant as much as (amisse) and (nomer. i. nominare.) It significant in our common lawe, the vising of one name for another, or mistearming. Broke, titulo Missioner.

Misprison (Mispriso) commeth of the French (Mesprison in fastidia, contemptus,) it signifies in our common lawe, neglect, or negligence, or overlight: As for example, Misprisson of treason, or offelony, is a neglect or light accompt shewed of treason or felony committed, by not reuealing it, when we know it to be committed; Stamps: pl.car. li. 1.ca.

19. which read at large: or by letting any person committed for treason or felony, or suspitio of either, to goe before he be indited. Also Misprision of Clerks, anno.8. He. 6.ca. 15. is a neglect of Clerks in wrighting, or keeping records. Thirdly, anno. 14. Ed. 3. ca. 6. statu pri. by misprisson of Clerks no processe shalbe admitted. Misprision of treason, is the concealement, or not difclosing of knowne treason, for the which the offendours are to fuffer imprisonment during the Kings pleasure, loose their goods, and the profits of their lands, during their lines. Crompton in his Instice of peace. caps Misprision of felony, fol. 40. West. parte 2. symbol. titulo Inditements, sect. 63. in fine. Misprision of selonie, feemeth only finable by the Iustices, before whome the party is attainted. Crompton. Inflice of peace, vbi supra. The suffices of the common place have power to assesse fines and amerciaments upon persons offending for misprifions, contempts, or negligences, for not doing, or mildoing any thing, in or concerning fines. West parte 2. sym bot.titulo Fines. fect. 133. Iuflices of Affise shall amend the defaults of Clerks misprifing of 2 fillable or leter in writing. Cromptons Iurisd. fol: 208. But it is to be noted, that other faults may X x 3 be be accompted misprisions of treasons or selonie, because certaine later statutes doe instict that punishment upon them, that of old hath beene insticted upon misprisions. whereof you have an example anno 14. El. ca. 3. of such as coine foreine coines not current in this Realme, and of their procurers, aiders, and abetters. And see the newe exposition of lawe Termes. Misprision signifieth also a mistaking, anno 14. Ed. 3. stat. pri. ca. 6.

Miffes, See Mife.

Misuser, is an abuse of libertie or benefite: As, he shall make fine for his misuser. old. nat. br. fol.

149.

Mistery (mysterium) commeth of the latine (Mysterium) or rather from the French (Mestier.i. ars, artisticum) an art or occupation.

Mittendo manuscriptum pedis finis, is a writ Iudiciall, directed to the Treasurer and Chamberlaines of the Exchequer, to search and transmit the soote of a fine, acknowledged before Iustices in Eyre, into the common plees, &c. Register. fol. 14. a. b.

Mittmus, signifieth a precept fent by the King out of his Bench, to those that have the custodie of fines levied, that they fend them by a day assigned to his Bench, west parte 2. symbol.

B. and also to the Exchequer for certificate that Iudgment is giuen for the liuerie of lands to such or such a one, out of the Kings hands: whervpo he is dismissed also out of the exchequer, a.z. R. 2.c. 15. of divers other v-fes and applicatios of this (Mitimus) see the Register originall in the table of the booke.

Moderata misericordia, is a writ that lieth for him that is amerfed in court Baron or other, being not of Record, for any trans. gression or offence beyond the qualitie of a fault. It is directed to the Lord of the court, or his Bayliffe, commanding them to take a moderate amerciament of the party: and is founded up. on Magna charra, ca. 14. Quod nulus liber komo amercietur nisi (ecundim qualitatem delicti, &c. The rest touching this writ, see in Fitzb.nat. br. fol. 75. See Mifericordia

Modo & forma, are words of art in a processe, and namely in the answer of the desendant, wherby he denieth himselse to have done the thing layde to his charge, modo & forma declarata. Kitch. fol. 232. It signifies as much, as that clause in the civile lawe, Negat allegata, prost allegantur, esse vera.

Moitye, commeth of the French (Moitie) id est, coaquavel

medi-

mediapars) and fignifieth the halfe of any thing, Litleton. fol.

Monks clothes, anno 20. Hen. 6.

сар. 10.

Moniers (Monetaria) Register.orioinal.fol. 262.b.co anno I. Ed. 6.ca. 15. be ministers of the Mint, which make and coine the Kingsmony. It appeareth by fome antiquity which I hauefeen that in auncient times our Kings of England had mints in most of the countries of this Realme. And in the tractate of the Exchequer, writen by Ockham, I finde, that whereas the Shyrecues ordinarily were tyed to pay into the Exchequer the kings sterling, for such debts as they were to answer, they of Northumberland, and Cumberland, were at libertie to pay in any fort of mony, fo it were filuer. And the reason is there giuen, because those two shires, monetarios de antiqua institutione non babent.

Monstrance de droyt, is as much to say, as shewing of his right. It significath in our common lawe, a suite in Chancerie to be restored to lands or tenements, that indeede be mine inright, though they were by some office found to be in possession of another lately dead. See Stawns. prerog. ca. 21. at large, and Brooke, titulo Petition.

of this also reade Sir Edward Cookes reports, lib. 4. fol. 54. b. &c. the Wardens of the Sadlers case.

Monstrauerunt, is a writ that lieth for tenents that hold freely by charter in auncient Demeane, being distreined for the payment of any tolle or imposition, contrary to their libertie, which they do or should enjoy, which see in Fitzh.nat. br. fol. 14.

Morian, is all one in fignification with the french (Morion.i. cassis) a head peece: which word the french man boroweth from the Italian (morione) anno. 4. 65.

Phi & Ma. ca. 2.

Morlinge, alias Mortling, seemeth to be that wolle which is taken from the skinne of a dead sheep, whether dying of the rotte, or being killed. anno. 27. H. 6.ca. 2, This is writen Morkin. anno. 3. Iaco.ca. 8.

Mort d'auncester, See Assis.

Mortgage (Mortuum vadium, vel Morgagium) is compounded of 2. French words (Mort, id est, mors) and (Gage, idest, pignus, merces) It fignisheth in our common lawe, a pawne of land or tenement, or any thing moueable, laid or bound for mony borowed, peremptorily to be the creditours for euer, if the mony be not paide at the day agreed vpon. And the creditour holding land or tenement vpon this bargaine, is in the méane

time

time called Tenet in mortgage. Of this we reade in the grand Custumarie of Normandie, cap. 112, in these wordes. Notandum insuper est, quod vadiorum, quoddam viuum, quoddam mortuum nuncupatur. Mortuum autem dicitur vadium, quod se de nibilo redimit & acquietat, ut terra tradita in vadium pro centum solidis, quam cum obligator retrahere voluerit acceptam pecuniam restituet in solidum. Vivum autem dicitur vadium, quod ex suis prouentibus acquiratur. Vt terra traditain vadium pro centum solidis vique ad tres annos, que, elapse tertio anno, reddenda est obligatori, vel tradita in vadium, quousq pecunia recepta de eiusdem proventibus fuerit persolute. Glanvile likewise lib. 10. cap. 6. defineth it thus: mortuum vadium dicutur illud, cuius fructus vel reditus interim percepti in nullo se acquietant. Soe you see by both these bookes, that it is called a dead gage, because whatfoeuer profit it yeeldeth, yet it redeemeth not it selfe by yelding fuch profit, except the whole somme borowed be likewise paid at the day. See M. Skene. de verborum signif. eodem. He that layeththis pawne or gage, is called the Mortgager, & he that taketh it, the Mortgagee. West. par. 2. symb.titulo Fines: fect. 145. This if it containe excessive vsurie, is prohibited, anno 37. H.S.c. 9.

Mortmaine (Manus mortua) is compounded of two french words (Mort. i. mors) and Main. i.manus) It fignifieth in the common lawe, an alienation of lands or tenements to any corporation, guilde, or fraternitie, and their fuccessours, as Bishops, parlons, vicars, &c. which may not be done without licence of the king, and the Lord of the maner. The reason of the name proceedeth from this, as I conceiue it, because the services and other profits due for such lands. as escheates, &c. comme into a dead hand, or into fuch a hand as holdeth them, and is not of power to deliuer them, or any thing for them backe againe. Magna charta, cap. 36. 6 anno 7. Ed. prim. commonly called (the statute of Mortmaine) and anno 18. Ed. 2. statut. 2. cap. 3. & anno 15. Richard. 2. cap. 5. Polydor. Virgill in the 17. booke of his Chronicles, maketh mention of this lawe, and giueth this reason of the name. Et legem hanc manum mortuam vocarunt, quod res semel data collegiis sacerdotum, non vtique rursiu venderentur, velut mortue, boc est, v. sui aliorum mortalium in perpetuum adempta essent. Lex diligenter fervatur, sic vt nibil possessionum ordini sacerdotali a quoquam detur,ma Regio permissu. But the former statutes be some thing abridged

by anno 29. Elizabeth cap. 5. by which the gift of lands, &c. to Hospitals is permitted without obteining of Mortmaine. Hotoman in his commentaries de verbis feudal, verbo Manus mortua. hath thele words. Manus mortua locatio est, que vsurp etur de us quorum possessio, ut sta dicam, mmortalis est: quia nunquam haredem habere desiment. Qua de causa res nunquam ad priorem dominum revertaur. Nam manus pro possessione dicitur, mortua pro immortali. Sic municipium dicitur non mori, l. An vsusfructus 56. D. de vsufr. legat. quoniam hominibus alies succrescentibus, idem populi corpus videtur. 1. proponebatur. 76. D. de Indiciis: Hac Hotomanus. & read therest. Amortizatio est in manum mortuam translatio Principis iusu, l'etrus Belluga in speculo principum: fol. 76. Ius amortizationis est licentia capiendi ad manum mortuam. Idem, eodem. where you may reade a learned tractate both of the beginning and nature of this do-Arine. To the same effect you may read Caffa. de consueru. Burg. pay. 348. 387. 1183. 1185. 1201. 1225.1285.1218.1274.M.Skene de verborum signif. saith that Dimittere terras ad manum mortuam. est idem atque dimittere ad multitudinem sive vniuersitatem, qua nunquam moritur:ida; per arrivegon, seu a contrario sensu, because communalties neuer die.

Mortuary (Mortuarium) is 2 gift lest by a man at his death. to his parish church, for the recompence of his personall tithes and offerings not duly payed in his life time. And if a man haue three or more catell of any kind, the best being kept for the lord of the fee, as a Heriot, the fecond was wont to be given to the perfo in right of the church, cap. statutum. De consuetu. in provincial. Touching this you have two statutes. one anno 12. Ed. pri. commonly called, Carcumstette agatis: whereby it appeareth, that Mortuaries are suable in the court Christian; the other anno 21. H.8:cap.6. whereby is fee downe an order and rate in mony for mortuaries.

Mulier, as it is vsed in the common lawe, scemeth to be a word corrupted and vsed for (Melior) or rather the French (Melieur). It fignifieth the lawfull issue preferred before an elder brother borne out of matrimony : anno H.6. cap. 11. Smith de repub. Anglo. lib. 3. cap. 6. But by Glanuile lib. 7: ca. pri. the lawfull iffue feemeth rather (Maher) then (Melior) because it is begotten (i Muliere) and not (ex Concubina) . for he calleth such issue filios mulierator, opposing them to bastards . And Britton cap. 70. hath frere mulier i. the brother begotten of the wife,

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opposit to frere bastard. This seemeth to be vsed in Scotland also, for M. Skene de verborum signis. verbo (Mulieratus filius) saith that Mulieratus filius, is a lawful son begotten of a lawfull wise. Quia mulieris appellatione vxor continetur. 1. Mulieris 13. & ibid glossa de verborum significatione

Mulmutius lawes, Sce Lawe.

Multure (molitura, vel multura) commeth neare the French, (moulture) and fignifieth in our common lawe, the tolle that the miller taketh, for grinding of corne.

Murage, (muraginm) is a tolle or tribute to be leuied for the building or repayring of publike edifices or walles. Fiz. nat. br. fol. 227. D. Murage seemeth also to be a libertie graunted by the King to a towne, for the gathering of money toward walling of the same. anno 3. Ed. 1. cap. 30.

Murder (murdrum) is borowed of the French, (meurtrier. i. carnifex, homicida) or (meurtre.i. internecio, homicidium,) The new Expositour of the lawe termes draweth it from the Saxon word, (mordren) signifying the same thing. It signisfieth in our common lawe, a wilfull and selonious killing of any other vpon prepensed malice. anno 52. H. 3. cap. 25. West. part.

2. Symbol, titulo, Inditements. felt 47. Bracton. lib. 3. tract. 2. cap. 15 num. prim. defineth it to be Homicidium, quod, nullo presente nullo sciente, nullo audiente, nullo vidente. clam perpetratur. And of the same minde is Britton. cap. 6. as also Fleta, lib. 1. cap. 20. yet Fleta faith alfo, that it was not murder, except it were proued the partie slaine were English, and no straunger. But as Stawnf. Saith, pl. cor. lib. 1. cap. 2, the lawe in this point is altered, by the statute, anno 14. Ed. 2. cap. 4. and murder is now otherwise to be defined. When a man vpon prepenfed malice killeth another, whether fecretly or openly, it maketh no mater: or be he an English man, or a forainer liuing vnder the Kings protection. And prepenfed malice is here either expresse or implyed : expresse, when it may be euidently proued, that there was formerly some euill will implyed: when one killeth another fodainly, having nothing to defend himfelfe: as going ouer a style, or such like. Crompton. Iustice of peace, in the chapter of Murder. fol. 19. b. See M. Skene de verbor. signif. verbo, Murdrum. This by the Latine Interpretour of the graund Custumarie of Normandy, is called multrum. cap. 68. See Were.

Muster, commeth of the French

(mou.

(moustre i.specimen, spectamen, exemplum,) as, feire moustre generale de toute son armee, is as much as, sustrare exercitum. The signification is plaine. Mustred of record. anno 18. H. 6. cap. 19. seemeth to be dare nomen, or to bee involled in the number of the kings souldiours. Master of the kings musters. anno. 2. Ed. 6. cap. 2. See Master.

Muster master general anno 35. Eliz. ca. 4. See Master of the kings

musters.

N

TAam (Namium) seemeth to come from the Dutch word (nemmen .i. capio) It fignifieth in our common law, the taking or apprehending of another mans moueable goods: and is either lawfull or vnlawfull. Lawfull naam, is nothing els but a reasonable distresse, proportionable to the valew of the thing distreined for. And this naam was aunciently called either vifor mort, quicke or dead, accordingly as it was made of dead or quicke chatels. Lawfull naam is so, either by the common law, or by a mans perticular fact: by the common law, as when one taketh another mans beafts dammage fersant in his grounds: by a mans particular fact, as by reason of some contract made,

that for default of payment of an annuity agreed upon, it shall be lawfull to distreine in such or such lands, &c. Horns mirrour of Instices. lib. 2. ca. de vec de naam. where you may read of other circumstances required in lawfull naam: viz: of what thing, or of what things first, in what maner, on what daies, and at what houres it ought to be made; with other points worth the reading, for the understanding of our law antiquities. See Withernaam.

Nasse. anno 4. H. 7. ca. 21. seemeth to be the proper name of Orford Hauen. Whether it be so termed of the boates or water vessels that lye there or not, let the reader judge. But (naselle) is in French a kinde of small boat.

Natino habendo, is a writ that lyeth to the Shyreeue for a Lord, whose vilein claimed as his inheritance, is runne from him, for the apprehending and restoring of him to his Lord againe. Register orig. fol. 87. Fitzb. nat. br. fol. 77. See Libertate probanda.

Naturalization. See Denizen.

Ne admittas, is a writ that lyeth for the plaintife in a Quare impedit, or him that hath an action of Darrein presentment depending in the common Bench, and feareth that the Bishop will admit the clerke of the desendant, during the suite betweene

Y y 2 them.

them. And this writ must be sued within size monethes after
the avoydance. Because after the
sixe moneths the Bishop may
present by lapse. Register orig. fol.
31. Fizzh. nat. br. fol. 37. where
see the rest.

Negative pregnant (Negatina pragnans) is a negative implying also an affirmative. As is a man being impleaded, to have done a thing ypon fuch a day, or in fuch a place, denyeth that he did it modo & forma declarata: which implyeth neuer the lesse, that in some sort he did it. Or if a man be faid to have alienated land, &c. in fee, he denying that he harh alienated in fee, seemeth to confesse that he hath alienated in some other forz. Dyer. fol. 17. nu. os. See Brooke hoctitulo and Kitchin, fol. 232. And fee the new exposition of lawe terms. And read also in some Civilians, of Affirmatina pragnans, and that is, que habet in se inclusiuam negat:uam. Et hoc importare videntur dictiones (Solum & tantum, que imolicant negatinam) Pacianus. De probationibus. lib. I. ca. 31. nu. 16. fol. 93.

Neif (natina) commeth of the French (Naif in naturalis, velnations) it fignifieth in our common law, a bond woman, anno. 1 Ed. 6. ca. 3. the reason is, because women become bond rather natinitate, than by any other means.

Ne iniuste vexes, is a writ that lyeth for a Tenent, which is distrained by his Lord, for other feruices than he ought to make. and is a prohibition to the Lord in it selfe, commaunding him not to distreine. The especial vse of it is, where the tenent hath formerly prejudiced himselfe by performing more fervices, or paying more rent without constraint, than he needed. For in this case, by reason of the Lords seifin, he cannot avoide him in avowry: and therefore he is driuen to this writ as his nextremedic, Register orsg. fol.4. Fitzh. nat.br.folio.

Ne vicecomes colore mandati Regis quenquam amoueat à possessione ecclessa minus iuste. Register

orig.fol.61.

Nient comprise, is an exception taken to a petition as vniust, bicause, the thing defired, is not conteined or comprehended in that act or deede, wherevpon the petition is grounded. For example, one defireth of the court, to be put in possession of a house formerly among other lands &c. adjudged vnto him. The adverte party pleadeth, that his petitio is not to be granted, because thogh he had a undgement for certaine lands and houses: yet the house into the possession wherof he defireth to be put, is not conteined among those for the which he

had

had indgement. See the newe booke of Entries. titulo, Nient comprise. This feemeth to be especially to hinder execution.

Nifle, anno 3. Ed.4.cap.5.

Nihil. anno. 5. R. 2. stat.pri. cap. 3. is a word set vpon a debt illeuiable, by the foreine Appoier in the Exchequer.

Nihil dicit, is a fayling to put in answer to the plee of the plaintiffe by the day assigned, which if a man do commit, indgement passeth against him, as saying nothing why it should not.

Nessprins, is a writiudiciall. which lyeth in case, where the Enquest is paneled, and returned before the Iustices of the Banke, the one partie or the other making petition, to have this writ for the case of the contrie. It is directed to the Shyreeue, commaunding that hee cause the men impaneled to come before the Inflices in the same countie, for the determination of the cause there, except it be so difficult, that it need great deliberation. In which case it is sent againe to the Bank, v. anno 14. Ed. 3. cap. 15. The forme of the writ, fee in old. nat. br. fol. 159. and in the Regist. indic. fol. 7. & 28. & 75. See the new booke of Entries, verbo, Nisi prims. And it is called (Nisi prius) of these words compri-

fed in the same, whereby the Shyreeue is willed to bring to Westminft. the men impaneled at a certaine day, or before the Iustices of the next Assises: nis die Lune apud talem locum trius venerat, &c. whereby it appeareth, that Juffices of Affises, and Iustices of (nisi prims) are differing. And luftices of (nisi prins) must be one of them. before whom the cause is depending in the Bench, with some other good man of the Countie affociated voto him. Fitz. nat. br. fol. 240. E. which he taketh from the Statute of Yorke.ann. 12. Ed. 2. See Westm. 2. cap. 20. anno 13. Ed. prim. & anno 27. einsdem. cap. 4. & anno 2. Ed. 3. cap. 17. & anne 4. einschem, cap. II. & anno 14. einschem cap. 16.6 anno 7. Rich. 2. cap. 7.6 anno 18. Eliz. cap. 12.

Nobility (nobilitas) in England compriseth all dignities aboue a Knight. So that a Baron is the lowest degree thereof. Smith de Repub. Anglor. lib. prim. cap. 17. Bartolus in his Tractate De Nobilitate, which he compiled vpon the lawe, Si vt proponis C. de dignitatibus, libro. 12. tehearseth foure opinions de Nebilitate, but rejecteth them, and himselfe defineth it thus: Nobilitas est qualitas illata per principatum tenentem, qua quis vitra honestos plebeios acceptus oftenditur. But

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this definition is too large for vs, except we will accompt Knights and Banerets inter plebem, which in mine opinion were too harsh. For Equites among the Romanes, were in a middle ranke inter Senatores & plebem.

Nocumento. See Nusance.

Nomination (nominatio) is vsed by the Canonists, and common Lawyers, for a power that a man by vertue of a maner or otherwise, hath to appoint a Clerke to a patron of a benefice, by him to be presented to the Ordinarie. New termes of the lawe.

Non-abilitie, is an exception taken against the plaintiffe or demandant vpon some cause, why he cannot commence any suite in lawe, as a Premunire, Outlawrie, Villenage, Excommunication: or because he is a stranger borne. The Civilians say, that such a man hath not personame standi in iudicio. See Broke, hoc titulo. see Fitzh. nat. br. fol. 35. A. fol. 65. D. fol. 77. C. The new Expositour of lawe termes reckoneth fixe causes of Non-ability: as if he be an outlawe, a stranger borne, condemned in a premunire, professed in religion, excommunicate, or a villein. Howbeierhe second cause holdeth onely in actions reall or mixt, and not in personall, except

he be a straunger and an ene-

Non admittas. See Ne admit-

Non-age, is all the time of a mans age under one and twenty yeares in some cases, or sourteen in some, as mariage. See Broke, titulo, Age. See Age.

Non capiendo clericum. See

Clerico non capiendo.

Non clayme, Cromptons Iurifa. fol. 144. feemeth to be an exception against a man that claimeth not within the time limited by lawe, as within the yeare and day, in case where a man ought to make continual claime, or within fine yeares after a fine lenyed. v. Coke. lib. 4. in proximio. See Continual clayme.

Non compos mentis, is of foure fortes: first, he that is an idiot borne: next, he that by accident afterward wholy leefeth his wits: thirdly, a lunaricke, that hath fomtime his vnderstanding, and sometime not: lastly, hee which by his own act deprinch himselfe of his right mind for a time, as a drunkard, Coke lib. 4.

fol. 124.b.

Nondistringendo, is a writ, comprising under it divers particulars, according to divers cafes: all which you may see in the Table of the Register original, verbo, Non distringendo.

Non est ou pabilis, is the general

nerall answer to an action of trespasse, whereby the defendant doth absolutely deny the fact imputed vnto him by the plaintiffe, whereas in other especiall answers, the defendaunt graunteth the fact to be done. and alledgeth some reason in his defence, why he lawfully might doe it. And therefore whereas the Rhetoricians, comprise all the substance of their discourses. vader three questions, An fit, quid sit, quale sit, this aunswere falleth under the first of the three: all other answers are vnderone of the other two. And as this is the generall aunswer in an action of trespasse, that is, an action criminall civily profecuted: fo is it also in all actions criminally followed, either at the fuite of the king or other, wherein the defendant denieth the crime objected vnto him. See the new booke of Entries. titulo, Non cu'pabilis, and Stawnf. pl.cor. lib. 2. cap. 62.

Non est factum, is an aunswer to a declaration, whereby a man denyeth that to be his deed, whereupon he is impleaded.

Broke, boc titulo.

Non implacinando aliquem de libero tenemento sine breui, is a writ to inhibit Bayliffes, &c. from distraining any man without the kings writ, touching his free hould. Register, fol. 121. b. Non intromittendo quando brene pracipe in capite subdole impetratur, Is a writ directed to Iustices
of the bench or in Eyre, willing them not to give one hearing, that hath under the colour
of intitling the king to land, &c.
as houlding of him in capite,
deceitfully obteined the writ
called: pracipe in capite. but to
put him to his writ of right, if
he thinke good to vse it. Register
orig. fo. 4. b.

Non mercandizando victualia, is a writ directed to the Iustices of Assis, commaunding them to inquire whether the officers of such a towne, doe sell victuals in grosse or by retaile, during their office, contrary to the stature, and to punish them, if they finde

it true. Register, fol. 184.

Non molestando, is a writ that lyeth for him, which is molested contrary to the kings protection graunted him. Register fol. 24.

Non omittas, is a writ lying where the Shyreeue deliucreth a former writ to a Bayliffe of a fraunchis, within the which the party, on whom it is to be ferued, dwelleth, & the Bayliffe neglecteth to ferue it: for in this cafe, the Shyreeue returning, that he deliucred it to the Bayliffe, this shalbe directed to the Shyreeue, charging him himselfe to execute the kings commaundement. O'd. nat. br. fol. 44. of this the

Reg.

Reg. orig. hath three forts. fol. 82.6. & 151. and the Reg. Iudi-

ciall one, fol. 5. 6 56.

Non ponendo in Allis & Iuratis, is a writ founded vpon the fat. Westm. 2. ca. 38. and the stat: Articult super chartas. ca. 9. which is graunted vpon divers causes to men, for the freeing them from Affifes and Iuries. See Fitzh. nat. br. fol. 165. See the Register, fol. 179.100.181.181.

Non procedendo ad Assisam Rege inconsulto, is a writ to stop the triall of a cause appertaining vnto one, that is in the kings feruice, &c. vntill the kingspleafure be farder knowne. Reg. fol.

220. d.

Non residentia pro clericis Regis, is a writ directed to the Ordinary, charging him not to moletta Clerk imployed in the kings feruice, by reason of his non residence. Register orig . fol. 58. b.

Non-suite, is a renuntiation of the suite by the plaintife or demaundant, when the mater is fo farre proceeded in, as the Iury is ready at the barre, to deliner their verdict. anno 2. H. 4. ca. 7. See the new booke of Entries, verbo Non-suite. The civilians rerme it Litis renunciationem.

Non soluendo pecuniam ad quane Clerious mu ctatur pro non residentia, is a writ prohibiting an Ordinary to take a pecuniary mulct, imposed vpon a clerk of the

kings for non-residence. Regist.

orig. fol. 59.

Non tenure, is an exception to a coumpt, by faying that he houldeth not the land specified in the coumpt, or at the leaft. some parte of it. anno 25. Ed. 2. stat. 4. ca. 16. West parte. 2. Simbol. titulo. Fines. sett. 138. maketh mention of non-tenure generall, and non-tenure speciall. See the new booke of Entries, verbo. Non-tenure, where it is faid, that especiall non-tenure is an exception, alledging that he was not tenent the day whereon the writ was purchased. Non-tenure generall is then by likelyhood, where one denyeth himselfee. uer to have bene tenent to the land in question.

Non sum informatus. See Infor-

matus non sum.

Non lane memorie (Non lana memoria) is an exception taken to any act declared by the plaintife or demaundant to be done by another, wherupon he groundeth his plaint or demaund. And the contents of this exceptio be, that the party that did that act (being himselfe or any other) was not well in his wits, or madde, when he did it. Seethe new booke of Entries, titulo Non Sane memory, and Dum nonfuit compos mentis. See also. supra Non compos mentis.

Non terme (non terminus) is the

time of vacation between Terme and Terme. It was wont to bee called the times or dayes of the kings peace, Lamb . Archaiono. fol 126. and what these were in the time of King Edward the Confessour, see there. This time was called (Insticum) or (Feria) among the Romanes, or (diesnefasti) Ferrus appellari notum est tempus illud, quod forensibus negotiis & iure dicendo vacabat. Earum autem alia solennes erant, alia repentina. Brisson. de verb. signif. lib. 6. vide Wesenbec: paratit. De Feris, num. 6.

Note of a fine, (nota finis) is a briefe of a fine made by the Chirographer, before it be engroffed. The forme whereof see in West. part. 2. Symbol, titulo. Fines. lebt. 117.

Novell assignement (noua assignatio) is an assignement of time, or place, or such like, otherwise then as before it was assigned. In Brocke you may find these wordes in effect: titulo, Deputie. num. 12. See novell assignement of trespasse in a new place after Barre pleaded. Broke titulo, Trespasse. 122. and, novel assignement in a writ de electione custodie. num. 7. See Assignement.

Nude mater. Sec Mater.

Nunne (Nonna) is the French word (nonnain) or (nonne) something altered, which fignifieth a holy or confecrated virgin, or a woman that hath by vowe bound her selfe to a single and chast life, in some place and company of other women, separated from the world, and addicted to an especial service of God, by prayer, fasting, and such like holy exercises. If we wold know whence this word came into France, S. Hierome maketh it an Egyptian word, as Hospanian recordeth of him, in his booke De origine & progressumonachatus. fol. 3.

Nuper obiit, is a writ that lyeth for a coheire being deforced by her coheire of lands or tenements, whereof the graundfather, father, vncle, or brother to them both, or any other their common auncesters, dyed seised of an estate in see simple. See the forme of the writ, origin. Regist. fol. 226. &c. Fitz. nat. br. fol. 197. If the auncestour dyed seised in see tayle, then the coheire deforced shall have a Formdon. Idem. ibid.

Nusance (nocumentum) commeth of the French (nuire. i. nocere.) It signifieth in our common lawe, not onely a thing done, whereby another man is annoyed in his free lands or tenements, but especially the Assiste or writing for the same. Firz. nat. br. fol. 183. And this writ (de Nocumento) or of Nu-

Cance is either simply De nocumento, or de paruo nocumento; and then it is Vicountiel. old.nat. br.f. 108. & 109. & Fitzh. nat. br. vbi supra. & fol. 184. Britton calleth it Nofance, whome also reade.ca. 61. 6 62. M. Manwood parte 2 of his forest lawes.ca. 17, maketh three forts of Nn-Cance in the forest, the first is Nocumentum commune, the fecond Nocumentum speciale, the third Nocumentum generale. which reade with the rest of that whole chapter. See the Reoister originall, fol. 197. & 199.

Nutmegs (nux myrifica vel nux muscata) is a spice well knowne to all. It groweth of a tree like a peach tree, and is inclosed in two huskes, whereof the inner huske is that spice which we call mace. Of this who will, may reade more in Gerards herball, lb. 3.ca. 145. It is mentioned among spices that are to be garbled. anno 1. Iaco.ca. 19.

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Bedientie, was a rent, as appeareth by Roger Hoveden parte poster: suorum annalium, fol. 430. in these words: vt ergo eis, sc:regularibus, adimatur oportunitas evagandi, prohibemus, ne reditus, quos obedientias vocant, ad sirmam teneant, &c. Obedientia in the canon lawe is ysed for an office or

the administration of an office ca. cum ad monasterium. 6. extra de statu monacho: & cano. regula. And therevpon the word (obedientiales) is vsed in the provinciall constitutions for those which have the execution of any office under their Superiors. cap. pri. de statu. regula. For thus saith Lyndwood in his gloffe upon that word: Hu funt qui sub obedientia Suorum prælatorum sunt, & babent certa officia administranda interius vel exterius. It may be that some of these offices called obedientie confisted in the collection of rents or penfions; and that therefore those rents were by a metonymie called obedientia, quia colligebantur ah obedientialibus.

Oblations (oblationes) are thus defined in the canon lawe. Oblationes dicuntur, que cunq; a piis sidelibusq; Christianis offeruntur Deo & ecclesia, siue res soli, siue mobiles sint. Nec refert an legentur testamento, an aliter donentur, cap. clerici. 13. quast. 2. Reade more of these in Duarenus. De sacrecol, minister. ac benefi. cap.

tertio.

Obligation (Obligatio) and Bill be all one, fauing that when it is in English, it is commonly called a Bill, and when it is in Latine, an Obligation. West parte 1. Symbol. lib. 2. sett. 146. True it is that a Bill is obligatorie: but we commonly call that an obligation.

obligation, which hath a condition annexed. The former author in the same place saith thus farder. An obligation is a deede, whereby the obligour doth knowledge himselfe to owe vnto the Obligee, a certaine fumme of money or other thing. In which, belides the porties names, are to be confidered the thing due, and the time, place and maner of payment, or deliuerie. Obligations be cither by mater in deede, or of record . An obligation by mater indeede is euery obligation not acknowledged & made in some court of record. Hitherto M. West.

Occupanit, is a writ that lieth for him, which is eiected out of his land or tenement in time of warre: as a writ of Novel diffeisin lieth for one eiected in time of peace. Ingham §. Bref de novel

disseisin.

Octotales. See Tales: See Brooke

Odio & atia, anno 3. Ed. 1. ca.
11: is a writ fent to the vnderfhyreeue, to inquire whither a
man being committed to prison
vpon suspition of murder, be
committed vpon malice or enils
will, or vpon inst suspition. Re
gister originals, fol. 133.b. See Braton li. 3. parte 2. ca. 20.

Office (Officium) doth fignifie not onely that function, by ver-

tue whereof a man hath some imploiment in the affaires of another, as of the King or other common person; but also an Inquisition made to the Kings vse of any thing by vertue of his office who inquireth. And therefore wee oftentimes reade of an office found, which is nothing but such a thing found by Inquisition made ex officio. In this fignification it is vied anno 33. H. 8. cap. 20. and in Stammfords prarog. fol. 60. 6 61. where to trauers an office, is to trauers the inquisition taken of office. And in Kitchin fol. 177. toreturne an office, is to returne that which is found by vertue of the office, see also the newe booke of Entries, verbe Office pur le Roy. And this is by a metonymie of the effect : And there be two forts of offices in this fignification, issuing out the exchequer by commission viz. an office to intitle the King in the thing inquired of, and an office of infirmction, which reade in Sir Edw. Cokes reports, vol. 6. Pages case fol. 52. a.b . Office in fee, is that which a man hath to himselfe and his heires, anno 13. Ed. 1. ca.25. Kitchin fol. 152. See Clerk.

Official(officialis) is a word very diverfly vsed. For by sundry Civilians of other countries, that write in these daies, it appeared to be applyed in many

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places, to fuch as have the fway of temporall iustice. Egidius Bossius in pract. crim.tit. De officialibus corruptis, &c. But by the auncienter ciuile lawe, it signifieth him, that is the minister or appparitor of a magistrate or ludge . l. I. S. si quis vltro. т. de questio. & Co.de filis officialium, &c.li. 12. In the Canon lawe, it is especially taken for him, to whome any Bishop doth generally commit the charge of his spirituall jurisdiction. And in this sence one in every Dioces is (officialis principalis) whome the Itatutes and lawes of this Kingdome call chanceler. anno 32.H. 8. cap. 1 5. Therest, if there be more, are by the cano law called officiales foranci. glos: in clem. 2.de Rescriptis, butwith vs termed Comissaries (Commissarii) as in the statute of H. 8. or some times (Commissarii foranei.) The difference of these 2. powers you may reade in Lyndwood, titulo de sequestra posses cas. I. verbo. Officialis . But this word (officiall) in our statutes and common lawe. fignifieth him, whom the Archdeacon substituteth in the executing of his jurisdiction, as appeareth by the statute about mentioned and many other places.

Officiariis non faciendis vel as movendis, is a writ directed to the magistrates of a corporatio, willing them not to make such a man an officer, and to put him out of the office he hath, untill enquirie be made of his maners, according to an inquisition formerly ordeined. Register original, fol. 126.b.

Onerando provata portionis, is a write that lieth for a ioint tenent, or tenent in common, that is diffreined for more rent, then the proportion of his land cometh vnto. Reg. orio. f. 182.a.

Open Lawe (Lex manifesta, Lex apparens) is making of Lawe. which by Magna charta ca. 28. Bayliffes may not put men ento upon their owne bare affertions, except they have witnesses to prove their imputation.

Orchel.anno. 1. R. 3. ca. 8. Orchall.anno. 24. H. 8. ca. 2. & anno. 3. & 4. Ed. 6. ca. 2. seemeth to be all one with cork.

Ordinance of the forest (Ordinatio Foresta) is a statute made touching forest causes in the 34. years of Edward. 1. See As-

Ordinarie (Ordinarius) though in the ciuil lawe, whence the word is taken, it doth signific any judge that hath authoritie to take knowledge of causes in his owne right, as he is a magistrate, and not by deputation; yet in our common lawe, it is most commonly, and for ought I remember, alway taken for him,

than

that hath ordinarie Iurisdiction in causes ecclesiasticals. See Brooke hoc titulo. Lindwood in cap. exterior. titulo de Constitutionibus. verbo Ordinarii, saith quod Ordinarius habet locum principaliter m Episcopo, & aliis superioribus, qui soli sunt vinuersales in suis inrisactionibus, sed sunt sub eo alii ordinarii, hii viz. quibus competit surisdictio ordinaria de iure, privilegio, vel consuetudine, & v.v.c.

Ordinatione contra servientes, is a writ that lieth against a servant for leaving his master a gainst the statute: Register origi-

nall, fol. 189.

Ordal (Ordalium) is a Saxon word, fignifiing as much as ludgement, in some mens opinions compounded of two Saxon words (or) a prinatine, as (a) in greeke, and (del .i. pars) It fignifieth as much as expers: but it is artificially vsed for akind of purgation practized in auncient times; whereby the party purged, was judged expers criminis, called in the canon lawe purgatio ou'garis, and veterly condemned . There were of this two forts, one by fire, another by water. Of these fee M. Lamberd in his explication of Saxon words. verbo Ordalium, where he expresseth it at large, with fuch superstitions as were vsed in it. Of this you may likewise read Holinshed in his descrip-

tion of Britanie fol. 98. and alfo M. Manwood parte pri. of his forest lawes, pag. 15. But of all the rest, Hotoman especially, disput de fend. ca. 41. where of five kinde of proofes, which he calleth feudales probationes, he maketh this the fourth, calling it explorationem, & buius furiosa probationis 6. genera fuisse animadvertit, per flammam, per aquam, per ferrum candens, per aquam vel gelidam vel feruentem, per sortes, & per corpus Domini, of all which he alledgeth seuerall examples out of historie, very worthie the reading. See M. Skene also de verbor. significatione, verbo (Machamin) This feemeth to have bene in vie here with vs in Henry the feconds dayes, as appeareth by Glanvile. lib. 14. cap. 1. 6 2. Readealso of this in M. Verstegans Restitution of decayed intelligence. cap. 3. pag. 63. 6 legg.

Orfgild, alias, Cheapegild, is a reflictation made by the Hundred or Countie, of any wrong done by one that was in plegio. Lamberd. Archaion. pag. 125. &

126.

Orgeis, anno, 31. Ed. 3. stat. 3. cap. 2. is the greatest fort of North sea-fish, now adaies called Organ ling.

Oredelfe, is a liberty whereby a man claimeth the Ore found in his foyle. New exposition of

Zz 3 Terms

Termes.

Ortelli, is a word vsed in the booke termed (pupilla oculi) in the chapter containing the charter of the Forcst. parte 5. cap. 22. and fignifieth the clawes of a dogges foote, being taken from the French, orteils despieds. i. digiti pedum, the toes.

Osmonds, anno 32. Henr. 8.

cap. 14.

Oath of the King, (Iuramentum Regis) is that which the King taketh at his Coronation, which in Bracton is set downe in these words. Debet Rex in coronatione fua in nomine Tesu Christi prastito Sacramento kac tria promittere populo sibi subdito: Inprimis se esse pracepturum & pro viribus opem impensurum ut ecclesia dei & omni populo Christiano vera pax omni suo tempore observetur. Secundo, et rapacitates & omnes iniquitates omnibus gradibus interdicat: 2. vt in omnibus iudiciis aquitatem pracipiat & misericordiam, vt indu geat er sua misericordia clemens & misericors Deus, & vt per Institia suam sirma gaudeant pace universi. And in the old abridgement of statutes set out in H. 8. daies. I finde it thus described. This is the oath that the King shall fweare at his coronation: That he shall keepe and maintaine the right and the liberties of the holy church, of old time graunted by the righteons Christian

Kings of England, and that he shall keepe all the lands, honours, and dignities righteous and free of the Crowne of England in all maner whole. without any maner of minishment, and the rights of the Crowne hurt, decayed, or loft, to his power shall call againe into the auncient estate, and that he shall keepe the peace of the holy church and of the ciergy, and of the people with good accord; and that he shall doe mall his judgements equitie and right iustice with discretion and mercie: and that he shall graunt to hold the lawes & customes of the realme, and to his power keepe them, and affirme them, which the folke and people have made and choien: and the cuill lawes and cultomes wholly to jut out: and stedfast and stable peace to the people of this realme keepe and cause to be kept to his power: and that he shall graunt no charter, but where he may doe it by his oath. All this I finde in the foresaide Booke titulo. Sacramentum Regis. and Charter of pardon . quin-

Oth of the Kings Instices is, that they well and truly shall serve the king, and that they shall not assent to things, that may turne to his dammage or disinheritance. Nor that they shall take

no fee nor liverie of none buc the king. Nor that they shall take gift nor reward of none that hath adoe before the m.except it be meate and drinke of final value, as long as the plee is hanging before them, nor after for the cause. Nor that they shall giue councell to none in mater that may touch the King, vpon paine to be at the kings will, body and goods . And that they shall doe right to every person, notwithstanding the Kings leters,&c.anno 18. Ed. 3. statut. 4. which the old abridgement maketh to be anno 20. emsdem statuto per se.

Otho, was a Deacon Cardinall of S. Nichens in carcere Tullians, and Legate for the Pope heere in England, anno 22.H. 3. whose constitutions we have at this day: Stones An. pa. 303. & see the first constitution of the said Legat.

Othobonis was a Deason Cardinall of S. Adrian, and the Popes legate heere in England anno 15. H. 3. as appeareth by the award made betweene the faid King and his commons, at Kenelworth. his constitutions we have at this day in vse.

Ouch, anno 24. H. S. ca. 13.
Ouster le main (Amouere manum) word for word, signifieth to take off the hand, though in true French, it should be (Oster la main) It signifieth in the com-

mon law, a Judgement giuen for him that tendeth a trauers, or sieweth a Monstrance de droit, or petition. For when it appeareth vpon the mater discussed. that the King hath noe right nor title to the thing he feised, then Iudgement shalbe ginen in the Chauncery, that the kings hands be amoued, and thereupon Amoneus manum shalbe awarded to the Escheatour, which is as much, as if the judgement were given, that he should have againe his land.v. Stawn. prarog. ca. 24. See anno 28. Ed. 1. stat. 3. ca. 19. It is also taken for the writ graunted ypon this petition. Fitzh. nat. br. fol. 256. C. It is written oter le maine, anno 25. Hen. 8. ca. 22.

Ouster le mer (vitra mare) commeth of the French (oustre.i. vitra) and (le mer.i. mare) and it is a cause of excuse or Essoine, if a man appeare not in Court vpon Summons. See Essoin.

Outfangthef, alias vtfangthef, is thus defined by Bracton li. 3. tra. 2.ca. 34.vtfangthef dicitur latroextraneus veniens aliunde de terra aliena, & qui captus fuit m terra ipsius, qui tales habet libertates, but see Briton otherwise. fol. 9 1: b: It is compounded of three Saxon words (out.i. extra) (fang .i. capio vel captus) and (Thef.i. fur) It is vsed in the common law, for a liberty or

oriue-

priviledge, whereby a Lord is inhabled to call any man dwelling within his owne fee, and taken for felony in any other place, and to judge him in his owne court. Raftals expos. of words.

Owelty of services, is an equality when the tenent parauaile oweth as much to the mesn, as the mesn doth to the Lord paramont: Fitzh. nat. br. fol. 136 A. B.

Outlawry (vtlagaria) is the lose or deprination of the benefit belonging to a subject that is, of the Kings protection and the Realme: Bratton: li. 3. tratt. 2. ca. I I. num. pri. o nu. 3. Forisfacit vtlagatus omnia que pacis sunt: Ouis a tempore quo vilagatus est, caput gerit lupinum, ita quod ab omnibus interfici possit, & impune: maxime si se defenderit, vel fugerit,ita quod difficilis sit eins captio. & nu. 4. St autem non fugerit, nec se defenderit cum captus fuerit: extunc erit in manu domini Regis mors, & vita. & qui taliter captum interfecerit, refundelit pro co sicut pro also, v.c.

Outeparters anno. 9. H.z. ca. 8. feemeth to be a kind of theeues in Ridefdall, that ride abroad at their best advantage, to fetch in such catell or other things, as they could light on without that liberty some are of opinion that those which in the ferena-

med statute are termed out-parters, are at this day called outputters, and are such as set matches for the robbing of any man or house: as by discouring which way he rideth or goeth, or where the house is weakest & sitted to be entred. See Intakers.

Outryders, feeme to be none other but baylisse errants, employed by the Shyreeues or their fermers, to ride to the sardest places of their counties or hundreds, with the more speede to summon to their county or hundred courts, such as they thought good to worke vpon. anno 14.

Ed. 3. Stat. 1. ca. 9.

Oxgang of Land (Bouataterre) Sixe oxgangs of land, seeme to
be so much as sixe oxen will
plough. Crompton.iurisd. fol. 220.
but an oxegang seemeth properly to be spoken of such
land as lyeth in gainour, old
nat. br. fol. 117. M. Skene de
verbor. significat. verbo Bovata
terra, saith, that an oxen-gate of
land should alway conteine 13.
acres, and that 4. oxen-gates
extendeth to a pound land of
old extent. See Librata terre.

Oyer and Terminer, (andiendo & terminando) in true French (Ovir & terminer) is, in the instendment of our lawe, a commission of pecially graunted to certaine men, for the hearing and determining of one or more

caules.

causes. This was wont to be in vie vpon some sodaine outrage or insurrection in any place. Cromptons surifd. fol. 131. £ 132. See The Statute of Westm. 2. cap. 29 anno, 13. Ed. 1. who might graunt this commission. And see Fitzh. nat. br. fol. 100. for the forme and occasion of the writ, as also to whom it is to be graunted, and whom not. See Broke, titulo, Oyer & determiner.

Oyer de Record, (Andire Recerdum) is a petition made in court, that the Iudges, for beter proofes fake, will be pleased to heare or looke vpon any Record.

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Packing whites. anne, 1. R. 3.

Pain fort & dure (pana fortis & dura) is in true French (peine fort & dure.) It signifieth in our common lawe, an especiall punishment for those, that being arraigned of felonie, refuse to put themselues vpon the ordinarie triall of God and the cuntrey, and thereby are mute, or as mute in interpretation of law. This (as Stawnf. thinketh, pl. core lib. 2. cap. 60.) is founded vpon the Statute of Westm. prim. cap 12. anno. 3. Ed. prim. His rezfon is, because Bractor, who writ before that Parlament, maketh

no mention of it: and Britton writing after that time, toucheth it in his 4. chapter, fel. 11. viz. in words to this effect: If they will not acquite themselues, let them be put to their penance vntill such time as they do desire triall: and let the penance bee fuch: viz. Let them be bare legged, without girdle, and without hatte or cappe, in their coate onely, and lye in prison vpon the naked earth day and night. And let them eate no bread, but of barley and branne, nor drink any other then water, and that vpon that day when they eate not. And let them be chained. Stawnford in his said 60. chapter of his fecond booke, expoundeth it more plainely and particularly in this fort. And note, that this strong and hard paine shall be such: fe. He shall be sent backe to the prison whence be came, and layed in some lowe darke house, where he shall lye naked vpon the earth without any litter, rushes, or other clothing, and without any raiment about him, but evely fomething to couer his privie members. And he shall lye vpon his backe with his head couered and his feete. And one arme shall bee drawneto one quarter of the house with a cord, and the other arme to another quarter: and in the same maner let it be done A 2 2 1

done with his legges: and let there be layed vpon his body i-ron and stone, so much as he may beare or more: and the next day following, he shall have three morsels of barley bread without drinke: and the second day, he shall have drinke three times: and as much at each time, as he can drinke, of the water next vnto the prison doore, except it be running water, without any bread. And this shall be his diet vntill he dye.

Palatine. See County Palatine. See Cassan. de consuetud. Burg.

pag. 14.

Palingman, amo 11. Henr. 7.

cap. 22.

Panell (panellum) commeth of the French (panne. i. pellis, or paneau) a peece or pane, as wee call it in English. It signifieth in our common lawe, a shedule or rolle, containing the names of such surours, as the Shyreeue prouideth to passe vpon any triall. Register orig. fol. 223. a. Kitthin, fol. 266. See Broke, how titulo. And thereupon the empaneling of a sur, is nothing but the entring of them into the Shyreeues rolle or booke.

Pannage (pannagium) is a tolle or contribution. Fitz. nat. br. fol. 227. D. See Pannage.

Paramounte, alias peremounte, commeth of these two French words (par.i.per) and (Monter

i. ascendere) It fignifieth in our law, the highest Lord of the fee: for there may be a Tenent to a Lord, that houldeth ouer of another Lord. And the former of those is called Lord Mesn, the second Lord paramount. And a Lord paramount (as it feemeth by Kitchin, fol. 209) consisteth only in comparison: as one man may be great being compared with a leffer, and litle being compared with a greater: and as Genus, among the Logicians, may be in divers respects both genus, and species. Fitzb. nat.br. fol. 135. M.So that no ne feemeth fimply to be Lord paramount but only the King, as Genus (ummum is simply Genus. For the King is patron paramount to all the benefices in England, Doctor and student: ca. 36. See Parauaile, Maner. and Fee.

Parauaile, alias Perauaile, is compounded of two French words (par .i..per) and (analler. i. dimittere, demittere) It signifieth in our common law, the lowest tenent, or him that is tenent to one, who houldeth his fee our of another, So is it vsed. pl. cor. fol. 197. and Fitzh. nat. br. fol. 135. M. See Paramounte. See Mesn.

Parcell makers, are two officers in the eschequer, that make the parcels of the escheators accoumpts, wherein they charge

them

them with every thing they have leaved for the kings vie, within the time of their office, & deliver the fame to one of the auditors of the court, to make an accompt for the escheatour thereof.

Parceners. See Coparceners.

Parcinarie (participatio) commeth of the French (partir, i. dinduum facere. It signifieth in our common law, a houlding or occupying of land by more pro mdiviso, or by joynt tenents, otherwife called Coparceners, of the French (parsonnier. i. partiarus, particeps.) For if they refuse to divide their common inheritance and chuse rather to hold it ioyntly, they are said to hold in parcinarie. Litleton, fol. 56.6 57. This by the Feudists and Lombards is termed (adaquatio, vel paragium.) And among the auncient Romanes particulones, sic enim authore Nonio, a veteribus coheredes inter se dicebantur, quod partes invicem facerent. Spigelius.

Pardon (Perdonatio) is a French word, fignifiing as much as pax, venia, gratia. It is vsed most notoriously in our common lawe, for the remitting or forgiuing of a felonious or other offence committed against the king. This pardon is two-fold: one ex gratia Regis, the other, per cours del ley, by course of law. Stawns. pl. cor. fol. 47. Pardon ex gratia Regis, is that, which the

king, in some speciall regard of the person or other circumstance, sheweth or affoordeth vpon his absolute prerogative or power. Pardon by course of lawe, is that which the lawe in equitie affoordeth, for a light offence, as homicide casuall, when one killeth a man having no such meaning. West. parte 2. Symbol. titulo, Inditements. Sect. 46. Of this see the new booke of Entries, verbo, Perdon.

Pardoners, anno 22. H. 8.c. 12. were certaine fellowes that carried about the Popes Indulgences, and fold them to fuch as would buy them, against whom Luther, by Sleydans report, incenfed the people of Germany in his time, exhorting them, ne merces

tam viles tanti emerent.

Parke (parcus) commeth of the French (parquer. i. vallo, vel fossa circundare.) It signifieth with vs, a peece of grounde inclosed and stored with wild beaftes of chase. Which a man may have by prescription or the kings graunt. Cromptons Iurifd. fol. 148. M. Manwood parte pri. of his Forest lawes. pag. 148. defineth it thus : A parke is a place of priviledge for wilde beaftes of venerie, and also for other wild beafts, that are beafts of the Forest, and of the chase, tam syluestres, quam campestres. And all those wild beastes are to

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haue a firme peace and protectió there. So that no man may hurt or chase them within the park, without licence of the owner of the same. Who also fol. 149. faith thus: A parke is of another nature, then either a chafe, or a warren is. For a parke must bee inclosed, and may not lye open: for if it doe, that is a good cause of feisure of the same into the hands of the king, as a thing forfeited: as a free chase is, if it be enclosed. And moreouer, the owner cannot have action against such as hunt in his park, if it lye open. See Forest. Sec Chase. See Warren. This word Parke, Baldwinns deriueth a paradiso, eumq, locum esse dicit, in quo varia animalia ad v sum voluptatis, aut venationis includentur & postidentur, adempta naturali libertote. Ad tit. de rerum divis. in Institu-

Parcofracto, is a write which lyeth against him, that violently breaketh a pound, and taketh out beasts thence, which, for some trespass done vpon another mans ground, are lawfully impounded. Register originals fol. 166. Fitzh. nat. br. fol. 100.

Parish (parochia) commeth of the greeke (magoinia i. Accolarum conventus, accolatus, sacra vicinia) it is vsed in the Cannon law, some time for a Bishoprick. But in our common law, it signifieth the particular charge of a fecular prieft. For every church is either Cathedrall, Couentuall. or Parochiall. Cathedrallis that. where there is a Bishop seated. so called a Cathedra: Conventuall consisteth of Regular clerks, professing some order of religion, or of Deane and chapter, or other colledge of spirituall men. Parochiall is that, which is instituted for the faving of diuine seruice, and ministring the holy Sacraments to the people dwelling within a certaine compas of ground neare vnto it. Our Realme was first divided into parishes by Honorius Archb: of Canterbury, in the yeare of our Lord. 636. Camden Britan. pag. 104. Of these parish churches I finde there were in England in the daies of H. 8. the number of 45000. Hotoman in his disputations de feudis. ca. 2. maketh mention of this word (parochia) out of Pomponius Latus in these words. Nam sic quog, Pomponius Latius veterem consuetudinem fuisse scribit, eamy, ab Imperatore Constantino repetitam, vt Ducibus, prafectis, Tribunis qui pro augendo Imperio consenuerant, darentur agri, villag, et necessaria suppeterent, quoadvinerent, quas parochias vocabant. And a litle after: verum inter feuda & parochias hoc interest, quod be plerumq; senibus, & veteranis, plerifg; emerita militia dabantur. dabantur, qui cum de Rep. bene meriti essent, publico benesicio reliquum
vita sustentabant: aut si quod bellum nasceretur, euocati non tam
milites, quàm mag istri militu viderentur. Feuda vero plurimum Iunenibus robustis, & primo slore atatis,
qui militia munus sustinere poterat:
mo verò & vt posset & vt vellet. & c.

Parlament (parlamentum) is a French word fignifing originally as much as (Co'locutio) or (colloquium) but by vie, it is also taken for those high courts of Iuflice throughout the kingdome of Fraunce, where mens causes and differences are publikely determined without farder appeale. Whereof there be feuen in number: as Paris, Tolouse, Gresnoble in Daulphene, Aix in Prouence, Bordeaux, Diion in Bourgogine, and Roan in Normandy. Vincentius Lupanus de Maoistrat. Franc. lib. 2. cap. Parlamentum. num. 28. whereunto Gerard de Haillon addeth the eighth. viz. Rhenes in Brettagne.

In England we vie it for the affembly of the king and the three estates of the Realme, videlicet: the Lords Spirituall, the Lords Temporall, and commons, for the debating of maters touching the common wealth, and especially the making and correcting of lawes, which affembly or court is of all other the highest, and of grea-

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test authoritie, as you may reade in Sir Thomas Smith. de Repub. Anglo lib. 2.cap. 1. 6 2. Camd. Britan.pag. 112. and Cromptons Iurifd.fol.pri. & fegg. The institution of this court Polydor Virgillib. II. of his Chronicles, referreth after a fort to Henry the first: vet confessing that it was vsed before, though verie feldome. I find in the former prologue of the Grande Custumarie of Normandie, that the Normans vsed the same meanes in making their lawes. And I have seene a monument of Antiquite, shewing the maner of houlding this parlament in the time of King Edward the sonne of King Etheldred, which (as my note faith, was delinered by the discreeter forte of the Realme vnto William the Conquerour, at his commaundement, & allowed by him . This writing beginneth thus. Rex est caput, principium, & finis parlamenti, & ita non habet parem in suo gradu. Et sic ex Roge solo primus gradus est. Secundus gradus est ex Archiepiscopis, Episcopis, Abbatibus, Prioribus per Baronia tenentibus. Tertius gradus est, de procuratoribus cleri. Quartus gradus est de Comitibus, Baronibus, & aliis Magnatibus. Quintus gradus est de militibus Comitatuum Sextus gradus est de civibus & Burgensibus: & ita est parlamen-

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tum ex fex gradibus. fed friendum. licet aliquis dictorum quing graduum post Regem absens fuerit, dum tamen omnes pramoniti fuerint per rationabiles summonitiones . parlamentum nibilo minus censetur este plenum. Touching the great authoritie of this court, I finde in Stowes Annalls, pag. 660. that Henry the fixth directing his priuie scale to Richard Earle of Warwicke, thereby to difcharge him of the Captainship of Cales, the Earle refufed to obey the privile scale, and continued forth the faid office, because he received it by Parlament. But one example cannot make good a doctrine. And of these two one must needes be true, that either the king is about the Parlament, that is, the positive lawes of his kingdome, or els that he is not an absolute king . Aristotle lib. 3. Politico. cap. 16. And therefore though it be a mercifull policie, and also a politique mercie (not alterable without great perill) to make lawes by the confent of the whole Realme, because so no one part shall haue cause to complaine of a partialitie: yet simply to binde the prince to or by these lawes, weare repugnant to thenature and constitution of an absolute monarchy. See Bratton. lib. 5.

tract. 3.ca. 3. nu. 3. and Casan de confact: Burg: pag. 335. and Tiraquel, in his booke De Nobilitate. cap. 20. pag.68.nu. 26.See the Statute anno 31. H.S.cap. 8. in proæmio . and many excellent men more, that handle this point. That learned Hotoman in his Francogallia, doth vehemently oppugne this ground. as some other that write in corners: but he is fo cleane overborne by the pois of reafon , that not onely many meaner men for learning triumph ouer him in this cale, but himselfe, as I have credibly hard, vpon the fight of his fault, cried God and the world mercie for his offence. in writing that erroneous and seditious booke. The Emperours of Rome had their semestria consilia, & their pratorium or place of councell, builded by Augustusin his palace, and therevpon called (palatium) afterward termed (confistorium) where they, as in their principall court, did both determine the greatest fort of their causes, and also made their constitutions. And heere had they affifting them many of the wifest of their empire; whome Augustus first called (consiliarios,) Alexander Severus afterward (scriniorum principes) others after that (palatinos) and then (comites consistoriaros

anos) And these men in this respect, were indued with great honour, and enioyed many priuledges. Yet were they but assistants to the Emperous to aduise him, not chalenging any power ouer him, or equal with him. More touching the course and order of this Parlament, see in Cromptons Iurisatt. fol. pri. & seq. and Vovell, alias Hooker, in his booke purposely writen of this mater. See King.

Parole (Loquela) is a French word, fignifying as much as (Distio, allocutio, fermo, vox) It is vied in Kitchin, fol. 193. for a plee in court. It is also sometime ioyned with lease, as Lease parol, that is Lease per parole. a lease by word of mouth.

Parson (Persona) commeth of the French (Personne). It peculiarly fignisieth with vs, the Refor of a church: the reason whereof feemeth to be, bicause he for his time reprefenteth the church, and suffei. neth the person thereof, as well in fiewing as being fiewed in any action touching the fame. See Fleta.lib. 6.ca. 18. Parson impersonee (persona imperfonta) is he that is in possesfion of a church, whether appropriated or not appropriated. for in the new booke of Entries, verbo Ayde in Annnity, you

haue these words. Et pradictus Adicit, quodipse est persona pradicta ecclesia de S. impersonata in eadem ad præsentationem E. patronila, coc. So I have reason to thinke, that persona is the patro or he that hath right to give the benefice, by reason that before the Lateran councell he had right to the tithes in respect of his liberalitie vsed in the erection or endowment of the church, quali sustineret personam ecclesia.and he persona impersonata to whome the benefice is giuen in the patrons right. For I reade in the Register Indicia! personam impersonatam, for the Rector of a benefice presentatiue and not appropriated, fol. 34.b. and see Dyer. fol. 40. na. 72 . where he faith that a Deane and chapter be persons impersonces of a benefice appropriated vnto them. who also fol. 221. num. 19. plainly sheweth that persona impersonata is he that is inducted and in possession of a benefice. So that persona seemeth to be termed impersonata, onely in respect of the possession that he hath of the benefice or Rectorie, beitappropriated or otherwise, by the act of another. And yet I haue talked with men of good opinion in the common lawe, that hold onely the proprietarie of

a benefice to be the person personnee. But if that weare true, he should rather be called person parsonnier i partiarius vel particeps frustuum, because the Vicare hath some parte toward his paines in seruing the cure. For (parsonnier) in the french tongue. is (partiarius) or (particeps)

Partes sinis nihil habuerunt, & c. is an exception taken against a fine levied. Cookes reports lib. 3. the case of Fines. fol. 88.

a. b.

Parters of gold and filuer. See Finours.

Partitione facienda, is a writ that lieth for those, which hould lands or tenements Pro Indiuiso, and would seuer to euery one his part, against him or them that resuse to ioyne in partition as Coparceners and Tenents in Gauel kind, ould: nat. br. fol. 142. Fitzh.nat.br.fol. 61. Register orig. fol. 76.316. and Register Indiciall, fol. 80. and the new booke of Entrise. verbo Partition.

Partlet, seemeth to be some part of a mans attire, as namely some loose collar of a dublet, to be set on or taken of by it selfe, without the bodies, as mens bands or womens neckirchiefs be, which are in some places, or at least haue beene within memory, called partlets. This word is reade in the sta-

tute, armo 24. H.8. ca. 13. and feemeth to be a diminutiue of the word (part.)

Paruo nocumento, is a Writ. See

Nusance.

Passage (Passagium) is a French word, signifying transitum, transitionem, meatum. It signifies his our common lawe, the hire that a man payeth for being transported ouer sea, anno 4. Ed. 3. cap. 7. or ouer any river. Westm. 2.cap. 25. anno 13. Ed. pri.

Passagio, is a writ to the keepers of ports, to let a man passe ouer, that hath license of the king. Register originals. fol. 192.

b. 194. a.

Passeport, is compounded of two French words (Passer.i perambulare, transsire) and (port. i. portus) It signifieth with vs, a license made by anythathath authoritie, for the safe passage of any man from one place to another.anno 2. Ed.6. ca. 2.

Pasuage, pasuagium. See Par-

пясе.

Patent (literapatentes) is different from a writ, Cromptons Iurisd fol. 126. The Coroneris made by writ and not by patent. See Leters patents. See also Litera patentes in the table of the Register, where you shall finde the forme of divers patents.

Patron (Patronus) is vsed in

the Ciule lawe, for him that harh manumitted a feruant, and thereby is both justly accompted his great benefactor, and challengeth certaine reverence and dutie of him during his life: see the title De jure patronatus: in the Digest with the Feudists it is vied pro authore feudi. Hotom . verbe Patronus in his commentarie de verbis feudal. In the canon lawe, as also in the feuds, and our common lawe, it signifieth him that hath the gift of a benefice. And the reason is , because the gift of churches and benefices originally belonged vnto fuch good men, as either builded them, or els indowed them with some great part of the revenew belonging vnto them. De iure patronatus in the Decretals. Such might well be called patrons, as builded the Church, or inriched it : but these that now have the gift of a benefice, are more commonly patronized by the Church, though against her will, alway felling their presentations as deerely as they can: and therefore may be called Patroni a patrocinando, as Mons à mouendo. Patronum faciunt dos, adificatio, fundus, saith the old verse, Of lay patrons one writeth thus. Quod autem a supremis pontificibus proditum est, (ca, cum dilettes, extra

de iure patro natus) laicos ius habere presantadi clericos Ordinariis: hoe singulari favore sustinetur, vt alle-Etetur laici invitetur, et inducantur ad constructione ecclesiaru (c.queniam. eodem) Nec omni ex parte 1115 patronatus pirituale censers debet, sed temporale potius spirituali annexum. (glosin c.pie mentis, 16.qu. 7.) These be Corasius words in his paraphrase ad sacerdotiorum materium, parte pri.cap. 2. and parte. 4. cap.6 in principio, he thus writeth of the same mater. Patroni in iure Pontificio dicuntur qui alicuius ecclesia extruenda, aut alterius cuinscung; fundationis ecclesiastica authores fuerunt, ideoa; prasentande & offerendi clericum ius habent. quem ecclesia vacants praesse, & in ea collatis reditibus frui velint. Acquirunt autem bocius, qui de Episcopi consensu vel fundant ecclesiam, boc est, locum in quo templum extruitur, assignant, vel ecclesiam adificant, vel etsam constructas ecclesias ante consecrationem dotant . vt non valde sit obscurum, ius patronatus quo de agimus, finire, ius esse prasentandi clericum ad ecoloffam vacantem ex gratia ei conce fum, qui consentiente Episcopo, vel confirman, vel dotavit ecclesiam.

Pannage (Pannagium, alias pafnagium) or (pennagium) as it is latined (in pupilla oculi) may be probably thought to come of the French (panez) or (panets) which is a roote fomething like a parfnep, but somewhat leffe and ranker in taste, which hogs in Fraunce feede vpon, though it be eaten by men also; and the French may feeme to come of the latine (pameium) in that which men vie in the steede of bread (Modorus) or (panicium) of the French. It fignifieth in our common law, the mony taken by the Agistors for the feede of hogs with the mast of the kings forest: Crompton. Iurid. fol. 165. Westm. 2. cap. 25. anno 13. Ed. pri. with whom M. Manwood parte pri: of his forest lawes agreeth in these words: Agistment is properly the common of herbage of any kinde of ground, or land, or woods, or the money due for the same : and panenage is most properly the mast of the woods, or lands, or hedgerowes, or the money due to the owner of the same for it. But this learned man in his second part. cap. 12. where he writeth at large of this, driveth the word from the greeke marnyugis at the which (I thinke) he smiled himselfe when he set it downe. Lindwood defineth it thus: Panagium est pastus pecorum in nemoribus & in Sylvis, vipore de glandibus & airis frutibus arborum Sylnestrium, quarum fructus aliter non solent colligi. titulo de decimis. ca. sincta. verb: Pannagus. M. Skene de verborum signs. calleth it pannagium, and defineth it to be the duty ginen to the king, for the pasturage of swine in his forest. The French word for the same thing is (panage) or (glandee) in glandatio, vel glandaum collectio, or pastio suum ex glandaum. And we surely take it from the French, whence they had it, or what etimologic they make of it, let themselves looke.

Peace (pax) in the generall fignification is opposite to warre or ftrife. But particularly it fignifieth with vs, a quiet and harmlesse cariage, or behauiovr toward the king- and his people. Lamb. eirenarcha. li. 1. ca. 2. pag. 7. And this is one way prouided for all men by oath, as you may read in Frank pledge, but more especially in case, where one particular man or some few goein daunger of harme from some other. For vpon his oath made thereof before a luftice of peace, he must be secured by good bond. See Lamb. eirenarcha lib. 2 c. 2.p. 77. See also Cromptons Iustice of peace. fol. 118. b. &c. víg; f. 129. This amog the Civilias is called cantio de non offendedo. Gail, de pace publ.lib. pri.c.2.nu.1.

Peace of God and the church, (pax Dei & ecclesie) is aunciently vsed for that rest, which the kings subjects had from trouble and suite of law, betweene the

termes. See Vacation.

Peace of the King. anno. 6. R. 2. Rat. pri.va. 13. is that peace and securitie both for life and goods, which the King promifeth to all his subjects or others taken to his protection. See Suite of the kings peace. This pointe of policie seemeth to haue beene borowed by vs from the Feudists, for in the fecond booke of the feuds, there is a chapter viz. the 53. chapter intituled thus. De pace tenenda inter subditos, & iuramento firmanda, & vindicanda, & de pæna iudicibus apposita, qui eum vindicare Ginstitiam facere neglexerint, the contents of which chapter is a Constitution of Fredericke the first, as Hotoman there proueth, expounding it very learnedly and like himfelfe. Of this kings peace, Roger Houeden fetteth downe diuers branches, parte poster. suorum annalium. in Henr. 2. fol. 344. a. b. and fol. 430. b. he mentioneth a forme of an oth which Hubert Archbishop of Canterburie, and chiefe Iustice of Englad in R. the first his daies, fent through the whole realme, to be taken by the kings subiects. See Deciners. See Suertie of peace. There is also the peace of the Church, for which, fee Sanctuarie. And the peace of the kings high way, which is the immunitie that the kings high

way hath, from all annoyance or molestation. See Wasling street. The peace of the plowe, whereby the plow and plow catell are secured from distresses. For which, see Fitz. nat. br. fol. 90. A. B. So Fayres may be said to have their peace, because noe man may in them be troubled for any debt elsewhere contracted. See Fayre.

Pedage (pedagium) signissieth money given for the passing by foote or horse through any countrey. extra de Censibus, ca. Innovamus. I reade not this word in any English writer, but onely the author of the booke called pupilla oculi. parte 9. cap 7. A. D.I thinke we rather vse passage for it. Pedagia dicuntur qua dantur à transcantibus in locum constitutum à principe. Et capiens pedagium debet dare saluum conductum, & territorium eius tenere securum. Baldus

in vsibus Feudorum. de pa. iura. fir.

S. Conventionales. Cassan. de con-

fuetud. Burg. pag. 118. hath thefe

wordes, Pedagium a pede dictum

est, quod à transeuntibus solvitur,

erc.

Peere (pila) seemeth properly to be a fortresse made against the force of the sea, for the better securitie of ships, that lye at harbour in any hauen. So is the peere of Doner described in M. Camd. Brit. p. 259 in meo.

Bbb 2 Peeres,

Peeres (pares) commeth of the French (per. i. par) it fignifieth in our common lawe, plurally those, that are empaneled in an Enquest, vpon any man for the convicting and clearing him of any offence, for the which he is called in question. And the reafon thereof is because the course and custome of our nation is, to tric euery man in this case by his equals. West prim. cap. 6. anno 3. Ed . prim. So Kitchin vieth it. fol. 78. in these wordes: Mais si le amerciament foit affirre per pares. And this word in this fignification, is not in vie with vs onely, but with other nations also. For pares funt connafalli, quorum sententia vasallus propter feloniam est condemnatus, Barklaius de Regno, lib. 4. cap. 2. Et pares sunt qui ab eodem domino feudum tenent, lib. prim. Fendor, cap. 26. But this word is most notoriously vsed for those that be of the Nobilitic of the Realme, and Lords of the Parlament, and so is it vsed in Stawnf. pl. of the Crowne, lib. 3. cap. Triall per les Peeres, being the first. The reason whereof is, because though there be a distinction of degrees in our Nobilitie, yet in all publike actions they are equall: as in their voices in Parlament, and in passing vpon the triall of any Noble man, &c. This appellation seemeth to be borowed from Fraunce.

and from those twelue Peeres. that Charles the Great, (or Lewis the younger, in some mens opinion) instituted in that kingdome, which be next vnto the King, and are of like dignitie among themselves touching their power in publike affaires. Of whome you may reade Vincentises Lupanus de magistrat. Frauncie lib, I. cap. Pares Franncia. So that we though we have borowed the appellation, and applied it with fome reason to all that are Lords of the Parlament, yet haue wee no fett number of them, because the number of our Nobles, may be more or lesse, as it pleafeth the King.

Pelota, is a word vsed in the booke ealled (pupille oculs) parte 5. eap. 22. signifying the ball of the foot, of the French

(pelote.)i. pila.

Pein fort & dure. See Pain fort

o dure.

Pelt wooll, is the woll pulled off the skinne or pelt of dead sheepe, anno 8. H. 6.

сар. 22.

Penen, anno 11. R. 2. cap. prims. is a Standard, Banner, or Enfigne, caried in warte. It is borowed from France: for pennon in the French language fignifieth the same thing. See Baneres: yea reade this word, anno 11. R. 2. cap. 1.

Penne:

Penne: See Baye.

Peper, (piper) is a spice known in a manner to every childe, beeing the fruite of a plant, that is betweene a tree and an herbe: of whose diversities and nature, you may reade Gerards herball, lib. 3. cap. 146. This is set among merchandize that are to be garbled. anno, 1. lacob. cap. 19.

Peper lonse, anno, 32. H. 8

cap. 14.

Per, cui, & post, See Entrie.

Perambulatione facienda, is a writ, that is siewed out by two or more Lords of maners, lying neere one another, and consenting to have their bounds seuerally knowne. It is directed to the Shyrceue, commanding him to make perambulation, and to set downe their certaine limits betweene them. Of this reade more at large in Fitz. nat. br. fol. 133. See Rationabilibus diress. See the Regist. orig. fol. 157. and the new booke of Entries, verbo, Perambulatione facienda.

Perche (peruca) is a French word, signifying a long pole. It is vsed with vs for a Rodde or Pole of 16. soote and a halfe in length. Whereof 40 in length and soure in bredth make an acre of ground. Cromptons Iurisd. fol. 222. Yet by the custome of the countrie it may be longer, as he there saith. For in the Forest of

Sheerewood it is 25. foot, fol. 224. M. Skene de verbor. signif. verbo, Particata terra, Saith, that particataterraisa Roode of land: where he hath also these wordes in effect : Three beere cornes without tayles fet together in length make an inch; of the which cornes one should be taken of the midde ridge, one of the fide of the ridge, another of the furrow. Twelue inches make a foot of measure: three foore and an inch make an elne: fixe elnes long make one fall, which is the common lineall measure, and fixe elnes long, and fixe broade, make a square and superficiall fall of measured land. And it is to be understood, that one rod, one raip, one lineall fall of measure, are all one, for each one of them containeth fixe elnes in length. Howbeit, a rod is a staffe or pole of wood, a raipe is made of tow or hempe. And so much land as falleth vnder the rod or raipe at once, is called a fal of measure, or a lineal fall: because it is the measure of the line or length onely. Like as the superficiall fall is the meafure both of length and bredth. Item, tenne fals in length and foure in bredth make a Roode; foure Roodes make an acre, &c. This is the measure of Scotland, whereof you may reade more in the same place.

Bbb 3 Perdo

Perdonatio vilagarie, in the Register indiciall, fol. 28. is the forme of pardon for him, that for not comming to the kings court is outlawed, and afterward of his owne accord yeldeth himselfe to prison.

Peremptorie (peremptorius) commeth of the verb (perimere) to cut of, and ioyned with a substantiue (as action or exception) fignifieth a finall and determinate act without hope of renewing. So Fitzh. calleth a peremptory action, nat. br. fol. 25. P. fol. 28. M. fol. 104. O. Q. R. fol. 108. D. G. and non-suite peremptorie. idem, eodem, fol. 5. N. F. fol. 11. A. peremptory exception. Bracton li. 4. ca. 20. Smith de rep. Anglorum, li. 2. ca. 12. calleth that a peremptory exception, which can make the state and iffue in a cause.

Perinde valere, is a difpensation graunted to a clerk, that being defective in his capacity to a benefice or other ecclesiasticall function, is de facto admitted vnto it. And it hath the appellation of the words which make the faculty as effectuall to the party dispensed with, as if he had bene actually capable of the thing, for which he is dispensed with, at the time of his admissio.

Perkins, was a learned Lawyer, fellow and bencher of the inner Temple, that lined in the daies of Edward the 6. and Queene Marry. He writ a booke vpon divers points of the common law of very great commendation.

Permutatione Archidiaconatus & ecclesia eidem annexa, cumecclesia & prabenda, is a writto an Ordinary commaunding him to admit a clerk to a benefice, vpon exchaunge made with another: Register orig. fol. 307. a.

Pernour of profits, commeth of the French verb (prendre il. accipere) and lignifieth him that taketh: as pernour of profits, anno 1.

H. 7. ca. pre. Pernour de profits, and cesti que vse is all one, Coke li.
i. casu Chudley. fol. 123. a. See Pernour, anno 21. R. 2. ca. 15.

Per que seruitia, is a writ iudiciall issuing from the note of a fine, and lyeth for the cognizee of a maner, seignory, cheise tent, or other seruices, to compell him that is tenent of the land at the time of the note of the fine leuied, to atturne vnto him. West parte 2. Simbol. titulo Fines. set. 126. To the same effect speaketh the old nat. br fol. 155. See also the new booke of Entries. verbo Per que seruitia.

Perquisite (perquisitum) signifieth, in Bracton, any thing purchased, as perquisitum facere. lib. 2. cap. 30. nu. 3. & lib. 4. ca. 22. Perquisites of court, be those profits that grow vnto the Lord of a maner, by vertue of his

Court

Court Baron, ouer and aboue the certaine and yearely profits of his land, as escheats, mariages, goods purchased by villeines, fines of copie houlds, and such like. New terms of the law.

Person. See Parson.

Personable, fignifieth as much as inhabled to hould or mainetaine plee in a court. for example: The demaundant was judged personable to maintaine this action. old. nat. br. fol. 142. and in Kitchin fol. 214. The tenent plealed that the wife was an alien porne in Portingall without the igeance of the King, and ludgenent was asked whether sheyould be answered. The plainife faith: Thee was made perfonable by Parlament, that is, is the Civilians would speake t, habere personam standi in iudiio. Personable is also as much, as to be of capacitie to take any thing graunted or given. Plowden, casu Colthirst. fol. 27.6.

Personall (Personalis) hath in our common lawe, one strange signification, being ioyned with the substantiue, things, goods, or Chatels: as things personall, goods personall, Chatels personall, for thus it significant any corporeall, and moueable thing belonging to any man, be it quicke, or dead. So is it ysed in west, parte 2. symbol. titulo Inditements, set 58. in these words. These is an ynlawfull selonious

taking away of another mans moueable perfonall goods. and againe, fol. 61. Larceny is a felonious taking away of another mans moueable personal goods; & Kitchinf. 139. In these words. Where personall things shalbe giuen to a corporation: as a horse, a cowe, an oxe, sheepe, hogs, or other goods, &c. and Staunford pl cor. fo. 25. Contrectatiorei aliena, is to be understood of things personall: for in things reall it is not felony, as the cutting of a tree is not felony. The reason of this application, fee in Chatell.

Personalty (Personalitas) is an abstract of personall. The action is in the personalty.old.nat.br. fol. 92. that is to fay, brought against the right person, or the person against whome in lawe, it lieth . I find thefe contrary words. (Perfonalitas & Imperfonalitas)in the author of the booke cailed vocabularius veriufg, iuris: as for example, Personalitas significatur per has dictiones: tu, mihi, ego, tibi, cum also significato quod probabiliter concluditur: o si nullo modo concludatur, tunc est Impersonalitas, quia actum vitiat, prout ratio dictat. verbi gratia. Ego stipulor: constituis te mihi soluturum debitum a Titio mihi debitum: Tu respondes, Satisfiet. Hac Impersonalitas non contrahit obligationem.

Persons ne Prabendaries ne se-

rong

ront charges as quinsimes, &c. is a writ that lyeth for prebendaries or other spirituall perfons, being distreined by the shyreeue, or collectours of fifteenths, for the fiftenth of their goods, or to be contributory to taxes. Fitzh. nat.br. fol. 176.

Pesterable wares, seeme to be fuch wares, as pefter and take vp much roome in a shippe. an-

no 32. H. 8. cap. 14.

Peter pence (Denarii Santi Petri)otherwise called in the Saxon tongue Romefeob. i. the fee of Rome, or due to Rome, and also Remescot, and Rome penning. was a tribute giuen by Inas King of the west Saxons being in pilgrimage at Rome, in the yeare of our Lord. 720. which was a peny for euery house. Lamberds explication of Saxon words, verbo Numus. whome fee also fol. 128. in Saint Edwards lawes. nu. 10. where it is thus writen. Omnes qui habent 30. denariatus vina pecunia in domo sua de suo proprio, Anglorum lege dabit denariu Sancti Petri, & lege Danorum, dimidiam merkam: Iste verò denarius debet summoniri in solennitate Apostolorum Petrico Pauli, & collige ad festivitatem, que dicitur ad vincula: ita ve vlera illum diem non detineatur. Si quispiam detinuerit, ad Iusticiam Regis clamor deferatur, quoniam denarius hic Regis eleemmozina est,

Iusticia verò faciat denarium reddere, & foriffacturam Episcopi et Regis. Quod fi quis domos plures habuerit, de illa, vbi residens fuerit in festo Apostolorum Petri & Pauli. denarium reddat . See also King Edgars lawes. fol. 78. cap. 4. which containeth a sharpe constitution touching this mater, Stowe in his Annals, pag. 67. faith, that he that had 20. peniworth of goods of one maner catellin his house, of his owne proper, was to give a penie at Laminas yearly. See Rome foot.

Petit Cape. See Cape.

Petit Larceny (parvum latroci-

nium) See Larcenye.

Petittreason (parua traditio) in true French is (petit trabizon, i. proditio minor) treason in a lesser or lower kinde . For whereas treason in the highest kinde, is an offence done against the fecuritie of the common wealth. West parte 2. symb. titulo Inditements, sect. 63. petit treason is of this nature, though not so expres. ly as the other. Examples of petit treason you shall find to be thefe: if a seruant kill hismaster, a wife her husband, a secular or religious man his prelate, arno 25. Edward 2. cap. 2. Whereof fee more in Staunf.pl.cor.lib. 1. cap. 2. See also Cromptons Instice of peace. fol. 2. wherehe addeth divers other examplesto those of Stawnford. For the pu-

nishment of petittreason, see the statute, anno 22. H.S. cap. 14.

and Crompton vbi Supra.

Petition (Petitio) hath a general fignification for all intreaties made by an inferiour to a superiour, and especially to one hauing iurisdiction : But most especially it is ysed for that remedie, which the subject hath to helpe a wrong done, or pretended to be done by the King. For the King hathit by prerogatiue, that he may not be fiewed vpon a writ. Stannf. prar. cap. 15. whome also read cap. 22. And a petition in this case is either generall, or speciall. It is called generall of the generall conclusion fet downe in the same.viz. que le Roy lui face droit & reison . that the King doe him right and reason: wherevpon followeth a generall indorsement vpon the same. foit drost fait aux partis. let right be done to the partise. Petition speciall is where the conclusion is speciall for this or that : and the Indorsment to that is likewise speciall. See the rest cap.

Petra lana, a stone of wooll See Stone.

Philiser, See Filazer.

Piccage (Piccagium) is moncy paid in faires for breaking of the ground to fet vp boothes or standings, doob viene aled

Picle, alias pitle, seemeth to come from the Italian (piccolo vel picciolo.i. parvus minutus) and fignifieth with vs a little small close or inclosure.

Pienour , commeth of the French (Pionnier .i. follor) and fignifieth such labourers, as are taken vp for the Kings hoft to cast trenches or vndermine forts anno 2.15 2. Ed. 6. cap. 20.

Psepowders court (Curia pedis pulverizati) com eth of two French words (pied.i. pes) and pouldreux.i. pulverulentus) It signifieth a court held in faires for the redres of all disorders comitted within them: which because it is summarie. de plano, & sine figura indicii, it hath the name of dustie feete. which we comonly get by fitting neere the ground: of this fee Cromptons Iurifd. fol. 221. Reade M. Skene. de ver. signif. verbo Pedepulverofus: which word he reporteth to fignifie a vagabond, especially a merchant, which hath no place of dwelling, where the dust may be wiped of his feet or shooes, & therefore must haue inflicefummarily ministred vnto him.viz. within three flowings and three ebbings of the sea. Bract. calleth it Institiam pepondrous, li. 5. tract. I.ca. 6. nu. 6. Of this court reade the statute анно 17. Ед. 4.сар. 2.

Pille of Foddray, in the countie of Lancaster, an. 2.H. 6.ca.5.

CccI fecfeemeth to be a creeke, and called pille by the ideom of the country for pile: for the which fee Pile.

Pillorie (Collifrigium Pillorium) commeth of the French (Pilorie) which may feeme to fmell of the greeke, and to proceede from (TUAN) because one standing on the pillory putteth his head through a kind of doore.i. ianua: & ocaw . i.video:it fignifieth all one thing with it, fauing that the French is vied for atumbrell, as well as for that which we call the pillorie. There is a statute made of the pillorie. anno 51. H.3. wherein you may see who were then Subject to this punishment. This was among the Saxons called Healsfang of (Heals)a necke and (Fang) to take, Lamb. explieation of Saxon words. verbo. Multa.

Pope (pipa) seemeth to be a rolle in the exchequer, otherwise called the great rolle, anno 37. Ed. 3.ca. 4. See Clerke of the pipe. It is also a measure of wine or oile couteining halfe a tunne, that is fixe fcore & fixe gallons, anno 1.R.3. cap.13.

Piscarie (piscaria) commeth of the French (pescharie i. piscatio) It signifieth in our common lawe, 2 libertie of fishing in an other mans waters.

Pittle. See Pule.

Placard, anno 2. & 3. Ph. & Mar.cap. 7. is a licence whereby a man is permitted to maintaine vnlawfull games.

Plaint (Querela) is a French word, fignifing as much as Queflus, querimonia. In our common law, it is vsed for the propounding of any action personal or reall in writing. So it is vsed in Brooke, titulo. Plaint in Assis. And the party making this plaint, is called plaintife: Kitchin, fol. 221.

Plea(placuum) commeth of the French (ploid.i.lis. controversa). It signifieth in our common lawe, that which either partie alleadgeth for himselfe in court. And this was wont to be done in French from the Conquest vntill Edward the 3. who ordeined them to be done in English . a. 36. cap. 15. Pleas are divided into pleas of the Crowne, and common pleas. Pleas of the Crowne in Scotland be 4. roberie, rape, murder, and wilfull fire, Skene de verb. fign. verb. Placitum. with vs they be all fuites in the Kings name against offences committed against his Crowne and dignuie. Stampf. pl. cor. cap. 1. or against his Crowne and peace. Smith. de Repub. Angl. 11.2. cap. 9. And those feeme to be treasons, felonies, mispristons of either, and mayhem. For those onely doth that reverend Iudge

Iudge mention in that tractat. Common pleas bethose that be held betweene common perfons. Yet by the former definitions, these must comprise all other, though the king be a partie. Plea may farder be divided into as many braunches as Action, which see. For they signifie all one. Then is there a Forein plea, whereby mater is alleadged in any court that must be tried in another . As if one should lay Bastardy to another in a court Baron. Kitchin. fo. 75. The word (placitum) is yfed by the Commentours vponthe Feuds in the same signification that pleas be with vs . And (placitare) with them is (litigare, & causas agere. Hotom. in verb. feudal. verb. Placitare.

Pledge (Plegius) commeth of the French (Pleige. i. fideiustor) Pleiger aucun. i. fideiubere pro aliquo. In the same signification is Plegius vsed by Glanuile. libro decimo, capite quinto, and Plegiatio for the act of suretiship in the interpreter of the Grand Custumarie of Normandie, capite 60. Plegii dicuntur persome que se obligant ad hoc, ad quod qui ces mittit tenebatur . And in the same booke, capit . 89 . 6 90. Plegiatio is vied as Glanuile

before doth vse it . Salui plegii, be vsed for plegii, pupill . oculi, parte quint . capit . 22 . Charta de Foresta. This word plegious is vsed also for Frank pledge sometime, as in the ende of William Conquerours lawes set out by Master Lamberd in his Archaionom . fel . 125 . in these words. Omnis bomo qui voluerit se teneri pro libero, sit in plegio, et plegius eum habeat ad Insticsam, si quid offenderit, &c. And these be called capitall pledges . Kitchin , folio decimo. See Frank pledge.

Plena foresfallura, and plena

vita, see Forfeiture.

Plegiis acquietandis, is a writ that lieth for a suretic against him, for whome he is suretie, if he pay not the money at the day. Fitzh. nat. br. fol. 137. Regist. original.

158.a.

Plenartie, is an abstract of the adiective (plenus) and is vsed by our common Lawyers in mater of benefices. Wherein plenartie and vacation be meerely contrarie. Stannford prerogative cap. oftan. fol. 32. West. secundo, capit. quint. anno 13. Edvard. pri.

Plevin (pleuina) commeth of the French (pleuine ... sponsio) Ccc 2 See See Replevin.

Plite of Lawne, &c. anno 3. Ed. 4. cap. s. seemeth to be a certaine measure, as a yard, or elle, 8cc.

Plonkets, anno 1.R. 3. cap. 8. is a kind of wollen cloth.

Pluries, is a writ that goeth out in the third place. For first goeth out the originall Capias: which, if it speed not, then goeth out the Sicut alias: and it that faile, then the Pluries. See old nat. br. fol. 33. In the writ De excom. capiendo, see in what diversitie of cases this is vsed in the Table of the original Regist.

Pole. See Perch.

Polein, anno 4. Ed. 4 cap. 7. feemeth to be a sharpe or picked toppe set in the forepart of the shooe or boote. This fashion was first taken up in Richard the seconds dayes, the pickes being made so long as they were tyed up to the knees with silver or golden chaines, and forbidden by Edward the sourth. Stow pag. 4.

Policie of assurance, is a course taken by those which do aduenture wares or merchandize by sea, whereby they, lothe to hazard their whole aduenture, do give vnto some other a certaine rate or proportion, as tenne in the hundred, or such like, to secure the safe arrivall of the ship, and so much wares at the place

agreed vpon. So that if the shin and wares do miscarie, the affinrer maketh good to the venturer fo much as he promifeth to fecure, 25 20.30. 100. more or leffe: and if the ship do fafely ariue, he gaineth that clearely which the venturer compoundeth to pay him. And for the more even dealing betweene the venturer and the securer in this case, there is a certaine Clerk or officer ordained to fet downe in writing the fumme of their agreement, that they afterward differ not betweene themselues vpon the bargaine. This is in course Latine elsewhere called affecuratio. This terme you have anno 43. Fliz.cap. I I.

Pondage. See Poundage.

Pone, is a writ, whereby a cause depending in the County court, is removed to the common Banke.old nat. br. fol. 2. See in what diversitie of cases it is vsed, in the table of the Original Register.

Pone per vadium, is a writ commaunding the Shyrecue to take furctic of one for his appearance at a day affigned: of this fee flue forts in the table of the Register Indie. verbo, Pone per vadium.

Penendis in Assis, is a writ founded vpon the statute of Westm. 2.cap. 38. and vpon the statute Articuli super chartas, cap. 9. which statutes do shew, what

persons Vicounts ought to impanell vpon Assis and Iuries, and what not: as also what number he should empanell vpon Iuries and Inquests, which see in the Register orig. fol. 178. a. and in Fuz. nat. br. fol. 165.

Ponendo in ballum, is a writ whereby to will a prisoner held in prison, to be committed to baile in cases baylable. Register

orig. fol. 133.b.

Ponendo sigillum ad exceptionem, is a writ whereby the king willeth Iustices, according to the statute of Westm. 2. to put their seales to exceptions laid in against the plaintistes declaration

by the defendant.

Pontage (pontagium) is a contribution toward the maintenance or reedifying of bridges Westm. 2. cap. 25. anno 13. Ed. pri. It may be also tolle taken to this purpose of those that passe ouer bridges, anno 39. Eliz. cap. 24. anno 1. H.8. cap. 9. and see the statute, anno 22. H.8. cap. 5.

Pontibus reparandis, is a writ directed to the Shyreeue,&c. willing him to charge one or more to repaire a bridge, to whomit belongeth. Regast. orig.

fol. 153.6.

Portgreue (portgreum) is compounded of two words (port) & (greue) or (graue) i. prafectus. It fignificth with vs the chiefe magistrate in certaine coast townes, and as M. Camden faith in his Britan. pag. 325. the chiefe magistrate of London was termed by this name: in steed of whom Richard the first ordained two Baylisses: but presently after him, King John granted them a Maior for their yearely Magistrate.

Porter of the doore of the Parlament house, is a necessary officer belonging to that high court, & enjoyeth the priviledges accordingly. Cromptons. Iurild. fol. 11.

Porter in the circuit of Iustices, is an officer that carietha verge or white rodde before the lustices in Eyre, so called, a portando virgam, anno 13. Ed. 1, cap. 24.

Porter bearing verge (virgator) before the Iustices of either bench, anno 13. Ed. 1. cap. 41.

See Vergers.

Portemote, is a word compounded of (port. i. portus) and the Saxon (Gemettan.i.conuenire) or of the French (mot. i. dictio, verbum.) It signifieth a Court kept in hauen townes, as Smainmote in the Forest. Manwood, parte prim. of his Forest lawes, pa. 111. It is sometime called the Portmoote Court, anno 43. Eliz. cap. 15.

Portsale, anno 35. H.8.cap. 7. id est, sale of fish presently vpon

returne in the hauen.

Possession (possessio) is vied two waies in our common lawe. First for lands and inheritance: as, he is a man of large possessions. In Ccc 3 which

which fignification it is also vsed among the Civilians fc: for the thing poffessed, l. possessionum: Cod. commun. veriusq, Indic. Next, for the actuall enioying of that, which either in truth or pretence is ours. And in this fignification there is possession indeed, and possession in lawe: pl. cor. fol. 198. The example there is this : Before or vntill an office to be found, the king hath onely possession in law, and not in deed, speaking of the lands escheated by the attainder of the owner. See prerog. fol. 54. G. 55. In this fignification 21so there is an vnitte of possessió, which the Civilians call Consolidationem. Take an example out of Kitchin, fol. 134. if the Lord purchase the tenancie held by Heriot service, then the Heriot is extinct by vnity of possesfion: that is, because the seigneurie and the tenancie be now in one mans possession. Many divisions of possession you may reade in Bracton . lib. 2 . cap . 17. per totum.

Post. See Per.

Post diem, is a returne of a writ after the day affigued for the returne: for the which, the Custos bremum hath source pence, whereas he hath nothing, if it be returned at the day: or it may be the see taken for the same.

Post sine, is a duty belonging to the king for a fine formerly acknowledged before him in his court which is paid by the cognizee, after the fine is fully passed, and all things touching the same wholly accomplished. The rate thereof is so much and halfe so much, as was payed to the king for the sine, and is gathered by the Shyreeue of the Countie where the land, &c. lyeth, whereof the fine was levyed, to be aunswered by him into the Exchequer.

Fost terme, is a returne of a writ, not onely after the day assigned for the returne thereof, but after the terme also, which may not be received by the Custos brevium, but by the consent of one of the Iudges: it may be also the fee which the Custos breuinm taketh, for the returne thereof, which is twen-

ty pence.

Posten, is a word vsed for a mater tried by Niss prina, and returned into the court of common pleas for Iudgement, and there afterward recorded. See Plowden, casual Saunders. fol. 211.

a. See an example of this in Sir Edw. Cokes reports. volum. 6.

Rowlands case. fol. 41. b. & 42.

a. See Custos brenium.

Post disseisin (post disseisina) is a writ given by the statute of West. 2. cap. 26. and lyeth for him that

hauing

having recovered lands or tenements by (pracipe quod reddat) vpon default, or reddition, is againe disseised by the former disseisour. Fitz.nat. br. fol. 190. see the writ that lyeth for this in the Register original, fol. 208.a.

Posteriority, (posterioritus) is a word of comparison and relation in tenure, the correlative whereof is prioritie. For a man holding lands or tenements of two lords, holdeth of his auncienter Lord by prioritie, and of his later Lord by posterioritie. Stamn.prarog.fol. 10. & 11. when one tenent holdeth of two Lords, of the one by prioritie, of the other by posterioritie, &c. old nat. br. fol. 94.

Pourchas (perquisitum) commeth of the French (pourchasser, i.follicitare, ambire:) it signifies the buying of lands or tenements with money or other agreement, and not the obtaining of it by title or discent. Conjunctum perquisitum. loynt pourchase. Regist. original. fol.

Pour faire proclaimer, que nul eniest fimes on ordures en fosses ouriners prescities, & c.is a writ directed to the Maior, Shyreene or Baylisse of a citie or towne, comanding them to proclaime, that none cast filth into the ditches or places neare adioy-

143.6.

ning: and if any be cast alreadie, to remoue it. This is founded vpon the statut, anno 12. Rich. 2. cap. 13. Fitzherb. nat. br. fol. 176.

Pourparty (propars, propartis, vel propartia) is contrarie to (pro indiviso) For to make pourparty is to divide, and sever the landes that fall to Parceners, which before partition they hold ioyntly, and pro indiviso. old.

mat. br. fol. 51.

Pourpresture (pourprestura, vel porprestura, vel paraprestura) secmeth to come from the French (pourpris.i. conseptum.) It is thus defined by Glanuile, lib. 9. cap. 11. Pourprestura est proprie, quando aliquid Super Dominum Regem ininsteoccupatur. Vt in Dominicis Regis, vel in viis publicis obstru-Etis, vel in aguis publicis transnersis à recto cur su: vel quando aliquis in ciuit ate super Regiam plateam aliquid edificando occupanerit: & generaliter, quoties aliquid fit ad nocumentum Regii tenementi, vel Regia via, vel cinitatis. Crompton. in his Iurifd. fol. 152. defineth it thus: Pourpresture is properly when a man taketh vnto himfelf or incrorheth any thing that he ought not, whether it be in any Iurisdiction, land or fraunchis: and generally, when any thing is done to the Nusance of the kings tenents. Et idem, eodem, fol. 203. saith to the same effect, bus

more

more at large. See Kitchin, fol. 10. and Manneod, parte prim. of his Forcst lawes, pag. 169. & parte 2. cap. 10. per totum. See Skene de verbor. signsf. verb. Purpresture. Where he maketh three sorts of this offence: one against the King, the second against the Lord of the fee: the third, against a neighbour by a neighbour lying neare him.

Pour seisir terres la semme que tient en Dower, &c. is a writ whereby the King seiseth vpon the land, which the wife of his Tenent, that held in capite, disceased, hath for her Dowrie, if shee marry without his leaue: and is grounded vpon the statute of the Kings prerogatiue.cap. 3. see

Fitzb. fol. 174.

Poursuyuant, commeth of the French (poursuiure.i. agere, agitare, per (equi) It fignifieth the Mefsenger of the king attending vpon him in warres, or at the counsell table, the Starre Chamber, Exchequer, or commission court, to be fent vpon any occasion, or message, as for the apprehension of a party accused, or suspected of any offence committed. Those that be vsed in marshall causes, be called Pourswemants at armes, anno 24. Hen. 8. cap. 17. whereof there be foure in number of especial names, which fee in Herald. And M. Stone speaking of Richard the third

his end. pag. 734. hath these words: For his bodie was naked to the skinne, notso much as one cloute about him, and was trussed behinde a Pursuyuant at armes, like a hogge, or a calse, &c. The rest are vied vpon other messages in time of peace, and especially in maters touching iurisdiction. See Herald.

Pourueyour, (provisor) commeth of the French (pourvoire in providere prospicere.) It signisheth an Officer of the King, Queene, or other great personage, that provideth come and other victuall, for the house of him whose Officer he is. See magna charta. cap. 22. & 3. Ed. prov. cap. 7. & cap. 31. & anno 28. eiusdem. Articuli super chartas. 2. and many other statutes gathered by Rastal under this title.

Powldanis. anno I. Iacob.ca.24. Power of the countie, (posse comtatus) by M. Lamberds opinion in his Eirenar. lsb. 3. cap. 1. fol. 309. containeth the ayde and attendance of all Knights, gentlemen, yeomen, labourers, seruants, apprentifes, and villaines: and likewise of Wardes, and of other young men about the age of fifteene yeeres, within the countie; because all of that age are bound to have harneffe, by the statute of Wmchester. But women, ecclesiasticall perfons

fons, and such as be decrepit, or do labour of any continuall infirmitie, shall not be compelled to attend. For the statute 2. H. 5. cap. 8. (which also worketh vpon the same ground) saith, that persons sufficient to travell, shall be affistant in this service.

Pounde (parcus) seemeth to signifie generally any inclosure of Arength to keepe in beafts: but especially, with vs, is signifieth a place of strength to restraine catell being distrained or put in for any trespas done by them, vntill they be repleused or redeemed. And in this fignificationit is called a pound onert, or o. pen pound being builded vpon the wast of some Lord within his fee, and is called the Lords pownd. For he provideth it to his vie, and the vie of his tenents. See Kitchin. fol. 144. It is divided into pound open, and pound close: pound open or ouert, is not onely the Lordes pownd, but a backfide, court, yarde, pasture, or else what foeuer, whether the owner of any bealts impounded may come to giue them meate and drinke without offence, for their being there, or his comming thither: pound close is then the contrary viz. fuch a one as the owner cannot come vnto, to the purpose aforesaide without offence, as fome close house, or such like place.

Poundage, is a Subsidie granted to the King of all maner of merchandies of euery merchant denizen and alien, caried out of this realme, or brought into the same by way of Merchandize, to the valew of twelue pence in ecucry pound, anno 12. Ed. 6. cap. 13. anno 31. Eliz. cap. 5. anno 1. Iacobi, cap. 33.

Pray age. See Age prier. Pray in ayd. See Ayd.

Prebend (prebenda) is the portion, which enery member, or Canon of a Cathedrall church receiveth in the right of his place, for his maintenance. And though vse haue wrought the latine word into the nature of a Substantiue: yet I thinke it originally to be an Adiective, or participle, and to have bene ioyned with (pars or portio) as (Canonica portio) which is in a maner all one in fignification. How be it (Canonica portio) is properly ysed for that share which enery Canon or Prebendary receiveth yearely out of the common stocke of the Church: and prabenda is a seuerall benefice rifing from some temporall land, or church appropriated, toward the maintenance of a Clerke, or member of a Collegiat Church; and is commonly furnamed of the place, whence, the profit groweth. And Pre-DddI bends

bends be either simple, or with dignity. Simple Prebends be those, that have no more but the revenew toward their maintenance: Prebends with dignity are fuch, as have fome Iurisdiction annexed vnto them according to the divers orders in euery seuerall church. Of this see more in the title. De prabendis, & dignitat: in the Decretalls. Aleiat faith that (prebenda) in the plurall number and neuter gender was aunciently vied: as now (prabenda) in the singuler number and feminine gender is vsed. parerg. ca. 42.

Prabendary (prabendarius) is he that hath a prebend: See Frabend.

Pracept (praceptum) is diverfly taken in the comon law: sometime for a commaundement in wrighting fent out by a Iuflice of peace, or other for the bringing of a person one or more, or records before him: of this you haue examples of divers in the table of the Reg. Indiciall: And this vse seemeth to be borowed from the customes of Lombardy, where praceptum fignifieth feripturam, vel inftrumentum. Hot. in verbis feudal. & libro. 3. Commentariorum in libros feudorum, in prafatione. Sometime it is taken for the prouocation, whereby one man inciteth an other to commit a felony, as theft, or murder. Seamnf. pl. cor. fol. 105. Bracton

calleth it (praceptum) or (mandatum) lib. 3. tract. 2. ca. 19. whence a man may observe three diversities of offending in murder: Praceptum, fortia, consilium: praceptum, being the instigation vsed before hand, fortia, the assistance in the fact, as help to binde the party murdered, or robbed: consilium, aduise either before or in the deede. The Civilians vse (mandatum) in this case, as appeareth by Angelus in tracta: de malesiciis.vers. Sempronium Mandatorem.

Praceptories, anno 3 2. H. 8. cap. 24. were benefices in a kinde, & termed preceptories, because they were possessed by the more eminent fort of the Templers, whome the cheife master by his authoritie created and called (praceptores Templi) loach. Stepha. de Iurisaitt. li. 4. cap. 10. num. 27. See Comaundry.

Pracipe quod reddat, is a writ of great diversitic touching both the forme and vse, for beter declaration whereof see Ingress, and Entrie. This forme is extended as well to a writ of right, as to other writs of enery, or possession. old. nat. br. fol. 13. and Fitzh.nat.br. fol.5. And it is called sometime a writ of Right close, as a pracipe in capite, when it issues out of the court of common plees for a tenent holding of the King in cheise, as

of his Crowne, and not of the King, as of any honour, castell or maner. Register orig. fal. 4. b. Fitzh. nat. br. fol. 5. F. Sometime a writ of Right patent: as when it issues out of any Lords court, for any of his tenents deforced, against the deforcer, and must be determined there. Of this reade more at large in Fitzh. nat. br. in the very sirst chapter or writ of all his booke.

Pramunire, is taken either for a writ, or for the offence wherevpon the writ is graunted. The one may well enough be vnderstoode by the other. It is therefore to be noted, that the church of Rome vnder pretence of her supremacie and the dignitie of Saint Peters chaire, grew to such an incroching, that there could not be a benefice (were it Bishoprick, Abbathy, or other) of any worth here in England, the bestowing whereof could escape the Pope by one meanes or other. In so much, as for the most part, he graunted out Mandats of ecclefiasticall liuings, before they were voide to certaine perfos by his buls, preteding therein a great care to fee the Church prouided of a Successorbefore it needed. Whence it grew that these kinde of Buls were called (Gratia expectative) or (Previsiones) whereof you may reade a learned discourse in Duarenus

that worthie Ciulian in his tra-Stat: De beneficiis lib. 3.c.1. and in his treatise De immunitate ecclesia Gallicana. These prouisions, were fo rife with vs, that at the last, King Edward the third, that heroicall Prince, not difgesting so intolerable an oppression, made a statute in the 25. yeare of his reigne, fatuto 5. cap. 22.and another, fatuto 6. einschem anni.cap. pri.and a third anno 27. against those that drew the Kings people out of the Realme, to answer of things belonging to the kings court; and another anno 28. fratu. 2. 6.1. 2.3. 6 4.to the like effect whereby he greatly restained this libertie of the Pope. Yet fuch was the wantonnesse that grew out of his power,& the num patiece of princes in those daies, that hee still advetured the continuance of these prouisions: in so much as King Richard the second made likewife a statute against them in the 12. yeare of his reigne, cap. 15. and the 13. yeare fatur. 2. ca. 2. making mention of the faid first statute of Edward the third, ratifiing the same, and appointing the punishment of those, that offeded against it, to be perpetuall banishment, forfeiture of their lands, tenements, goods, and catels, as by the same doth more at large appeare. And againe in the 16. Ddd 2 yeare

yeare of his reigne, cap. 5. to meete more fully with all the shifts invented to defraude these former statutes, he expresfeth the offence more particularly, and fetteth the same punishment to it, that hee ordeined in the 12st former statute, for there toward the endehe hath these words: If any purchase or pursiew, or do to bepurchased, or pursiewed in the court of Rome, orels where, any such translations, processes, and sentences of excommunication, Buls, Instruments, or any other things, &c. Afrer him K. H. the fourth in like maner greeued at this importuny by other abuses not fully mette with in the former statutes, in the fecond yeare of his reigne, cap. 2. 6. 4. addeth certaine new cases, and laieth vpon the offendours in them the same censure. whereunto for shortnes sake I referre you: admonishing likewife to adde the statute, anno. 9. eiusdem. cap. pri. & anno 7. cap. 9. & 8.6 anno 9.eusdem. cap. 8.6 anno 3. H.5. cap. 4. Out of which statutes have our professors of the common lawe, wrought many daungers to the Iurifdiction ecclesiasticall, thretning the punishment conteined in the statute anno. 27. Ed. 3. 6. 38. eussdem, almost to every thing that the court Christian dealeth in, pretending all things delt

with in those courts to be the differifon of the Crowne, from the which, and none other fountaine, all ecclesiasticall Inrifdiction is now derived : where as in truth Sir Tho. Smith faith very rightly, and charitablely, that the vniting of the supremacie ecclefiasticall, and temporall in the king, veterly voideth the vie of all those statuts. Nam cessante ratione, cessat lex. And whatsoeuer is now wrought or threatened against the Iurisdiction ecelefiasticall, by colour of the same, is but in emulation of one court to another: and by confequent a derogation to that authoritie, from which all Iurisdiction is now derived, and the maintenance whereof was by those Princes especially purposed. But of this reade Sin Thomas Smith, lib. 3. de Rep. Angl. cap.9.

Some later statutes doe cast this punishment vpon other offenders: as namely the statute, anno 1.El. cap. primo, vpon him that denieth the Kings supremacie the second time, &c. and the statue anno 13. El.ca. 2. vpon him that affirmeth the authoritie of the Pope: or that resustant to take the oathe of supremacie. and the statute, anno 13. El.cap. 1. such as be seditious talkers of the inheritance of the Crowne, or affirme the Queenes Maiestie

to be an heritique . And the word is applied most commonly to the punishment first ordeined by the statutes before mentioned, for fuch as transgressed them; but in later times imposed vpon other offences. for that, where it is faide that any man for an offence committed shall incurre a premunire, it is meant, that he shall incurre the fame punishment, which is inflicted against those that trangresse the statute made, anno 16.R.2.ca. 5. which is commonly called the statute of premunire, which kinde of reference is not vousuall in our statutes. Cor example. I shew onely the statute, anno 5. El. ca.5. where it is inacted that if any man preach or teach by wrighting that the comon Counfell of the Realme doe by that statute forbid flesh to be eaten, as of necessitie for the fauing of mans foule, that he shall for such preaching, &c. bepunished as they be, which bespredders of false newes: hauing reference thereby to thole flatutes, which conteine the punishment of such offenders.

Now touching the Etymologie of this word (Premunire) fome thinke it proceedeth from the frength given to the Crown by the former statutes, against the vsurpation of forein and vn-

naturall power: which opinion may receive some ground from the statute, anno 25. Ed. 2. stat. 6. cap. pri. But other thinke it to grow from the verb (Pramonere) being barbarously turned into (Pramunive) which corruption is taken from the rude Interpreters of the Civile, and Canon lawes, who indeede doe viethe effect (Pramunire) many times for the efficient cause (Pramonere) according to our prouerb: He that is well warned, is halfe armed. And of this I gather reason from the forme of the writ. which is thus conceined in the old.nat.br.fol. 142. Pramunire facias prefatum prepositum & I. R. procuratorem, &c. quod tunc fint cor am nobis, &c. for these words can be referred to none, but parties charged with the offence.

Prapositus ville, is vsed sometime for the Constable of a rown, or petit Constable. Cromptons Imission fol. 205. how be it the same author fol. 194. scemeth to apply it otherwise. for there quatuor homines prapositi, be those 4. men, that sor every towns must appeare before the Iustices of the Forest in their Circuit. It is wied sometime for a Reeve. See Reeve.

Prarogative of the King (prarogativa regis) is that especiall Ddd 3 power, power, preeminence, or priuiledge that the King hath in any kinde, ouer and aboue other persons and about the ordinarie course of the common lawe, in the right of his crowne . And this word (Prarogatina) is vsed by the Ciuilians in the same sense. l. Rescriptum . 6. §. 4. 7. de hono. & muner. But that priviledge that the Roman Emperour had aboue common perfons, they for the most part comprised (sub iure sisci. a.de iure fiscs, per totum tit. & Co.li. 10.tit.1. Among the Feudists this is termed (ius regalium ius regaliorum vel a nonnullis ius regaliarum) But as the Feudists, sub inve regalium, foe our lawyers (sub prarogatma regis) doc comprise also, all that absolute heighth of power that the Civilians call (maiestatem, vel potestatem, vel ius imperii,) subject only to god: which (regalia) the Feudifts divide into two forts, maiora (c. &. minora regalia.for to vse their owne words, Quadam regalia, dignitatem, prarogatiuam, & imperii praemmentiam spectant: quadam verò ad vilitatem, & commodum pecuniarium immediate attinent: & bac proprie fiscalia sunt, & ad ius fisci pertinent. Peregri: de iure fisci, li pri. sap. I. nu.9. See also Arnoldus Clapmarius. de arcanis Imperis. lib. pri.cap. 11.0 fegg. who feemeth to make difference betwene maiestatem & ins regalio. ru. Others also make those (maiora regalia) that appertaine to the dignitie of the prince, and those minora, which inrich his cofers. Regnerus Sixtinus, de iure rega.cap. 2. By this it appeareth, that the statute of the Kings prerogatue made, an. 17. Ed. 2. conteineth not the fumme of the Kings whole prerogative, but onely fo much thereof, as concernes the profit of his cofers growing by vertue of his regall power and crowne. for it is more then manifest, that his prerogative reacheth much farder: yea euen in the maters of his profit. which that statute especially confisteth of. For example, it is the kings prerogative to graunt protection vnto his debtours against other creditours, vntill himselfe be satisfied. Frizh. nat. br.fol. 28. B. to distreine for the whole rent vpon one tenent, that hath not the whole land. Idem. fol. 235. A. to require the auncesters debt of the heire, though not especially bound. Brit.cap. 28.fo.65.b.to seise vpon money paid by his deptour into a court, for the fatisfaction of an executor. Plonden, fol. 322. a. to permit his deptours to siew for their debts by a Quo minus) in the exchequer . Perkins. Grammis. 5. to be first paid by one that oweth money both to

him and others. Dyer. fol. 67. nu. 20.to take the lands of accountants into his hands for his own fatisfaction. Plond. cafe Almes. fol. 321. 6 322. to take his action of accoumpt against executors, eodem, fol. 320. not to be tied to the demaund of his rent. Coke.li.4.fo. 73.a. Now for those regalities which are of the higher nature (all being within the compas of his prerogative, and iustly to be comprised vnder that title) there is not one that belonged to the most absolute prince in the world, which doth not also belong to our king, except the custome of the nations fo differ (as indeede they doe) that one thing be in the one accompted a regalitie, that in another is none. Onely by the cusome of this kingdome, he maketh no lawes without the confent of the 3. estates though he may qualh any lawe concluded of by them . And whether his power of making lawes be restreined (de necessitate) or of a godly and commendable policy. not to be altered without great perill, I leave to the judgement of wifer men. But I hold it incontrowlable, that the king of England is an absolute king. And all learned politicians doe range the power of making lawes, inter insignia summe & ab-Solute potestatis. Majora autem

regalia funt hac: clausula plenitudinis potestatis & ex ea aliquid statuere, leges condere, ac eas omnibus & singulis dare, bellum indicere. belli indicenci licentiam alii dare, pronunciare ita vt a sententia appellarinon possit, committere sive delegare alicui causam cum clausula appellatione romota, cognosce. re de crimine lasa maiestatis, legitimare per rescriptum eos qui extra legitimum matrimonium nati sunt, ad famam, honores, & natales in integrum restituere, veniam etatis dare creare Duces, Marchiones, Comites regnum in feudum concedere. Huc referri potest ius erigendil scholam, quahodie Vninersitas vel Academia appellatur, etiā ius creādi doctores, gradu licentia aliquem insigniendi, creandi magisiratus, tabelliones, sue not arios, ius dandi msignia nobilitatis, sue nobiles creandi, ius cudenda moneta, noua vectigalia instituendi, vel instituta ve-Etigalia augendi; Sixtinus vbi supra. So that those other which are mentioned in libris feudorum, and the interpreters of them, are (at the least for the most part) justly called regalia minora, as armandia, vie publica, flumina nauigantia, portus, ripalia, vectigalia, moneta, multtarum pænaruma; compendia, bona vacantia, bona que indignis auferuntur, bona eorum qui incestum matrimonium contrahunt, bona damnatorum, & proscriptorum, angarie & parangarie, extraordinarie

ad expeditionem imperatoris collationes, potestas creandorum maoistratuum adiusticiam exequendam, argentarie, palatia in ciuitatibus constituta, piscationum reditus, salinarum reditus, bona committentium crimen lasa maiestatis, thesaurus inuentus. By setting downe these regalities of both forts, as they are accoumpted in the Empire, and other forein kingdomes, they may be the more easily compared with our kings prerogatiues, and so the differences noted betweene vs and them. And whereas somethings are before reckoned both (inter regalia maiora, es minora) the reader must understand that this may be in divers respects. For example, the power of raising a tribute, or of coyning money is inter majora: but the profit that groweth to the Prince by the one or other, is (interminora) Now may there also be noted out of books a great number of prerogatives belonging to the king of this land, which doe not bring profit to his cofers immediately, and therefore may be accoumpted inter regalia maiora, or at the least, in a middle or mixt nature, or inter maiora & minora, because by a consequent they tend to the increase of the kings exchequer. Of these such as I have observed in reading, I will fet downe as they come to my hands, without farder curiofity in dividing. It is the kings prerogatiue that he may not be fiewed vpon an ordinary writ as tenent to lands, but by petition. Plond. casu Walsingbam fo. 553. to haue a cecessary consent in the appropriation of all benefices. 1dem, casu Grendon. fol. 499. to waiue and to demurre, and to pleade to the iffue, or to waine the iffue, and to demurre voon the plee of the aduers part, yet not to chaunge the iffue another terme after he and the aduers part be once at iffue. Idem, casu William. fol. 23.6. a. & casu Mines fol. 322. a. to be received in a suite before issue ioyned vpon an (ayde prier) Idem, casu Dutchy of Lancaster, fol. 221. b. to be neuer in nonage, eodem, fol. 218. b. that a man indicted may not wage battell with him. Idem casu nimes fol. 335.6. that no man ypon any right may enter vpon him being in possession, but must be put to suite. Dyer fol. 139.nu. 33. to leise the lands of his tenents that alienate without licence. Plond. calu. Mines. fol. 322. a. that no subject may wage his law against him. Broke. chosein action. 9. Coke. lib. 4. fol. 93. to present in the right of the youngelt coparcener being his wirde before the elder. Pland: cafu, Mines. fol. 332. b. & fol. 333. a. that a benefice by institution is

not full against him. Coke. Dig-1 bies case fol. 79. a. not to finde pledges for the periccuting of any action. For he cannot be amerced. Fitzb.nat. br.fo. 21. F. & fo.47. C. to fiew in what court he will. Fitzh nat. br.f. 7. B. eb 22. E. to fiew the writ Neadmittas after fixe monethes. Regist. orig. fol. 31. a. that a mans villein having remained in his auncient demesn by the space of a yeare, may not be recovered by the writ (de natino habendo) Fitzh. nat. br. fol. 79. A. to graunt an office with the (babendum post mortem alterius) Dyer. fo. 295. nu. v. to shorten the ordinary time of fummons (being 15. daies) in writ of right. Brit. ca. 121. to give what honour or place he listeth to his subjects. anno 31.H. 8.ca. 10. to be owner of a forest. See Forest. to have free warren. See Warren. Not to be owted of his free hould. Cromptons Inflice of peace. fol. 59. b. & 16.a. to araigne a man being both a Traitor, and a Felon, rather vp. on the treason, than you the felony, because he may have the whole escheats. Idem. eadem. fol. 99. a. to warrant the day of appearance to his fubicat being in his feruice, and fummoned to appeare at a day certaine. Fitzh. nat. br. fol. 17. a. Divers of these, and many others did belong (fifcoimperatorum) which you may finde in the Digeft: De iure festi.

Gr Co. lib. 10. iit. 1. Besides these also many more may be observed to belong vnto our King out of lawes, which I leave to their collection that are of longer reading, and more painefull industry.

Prerogatine of the Archbishop of Canterbury, or Yorke, (prarogatina Archiepiscopi Cantuariensis, seu Eboracensis) is an especiall preeminence, that these Sees have in certaine cases aboue ordinary Bishops within their Provinces. And that of the Archbishop of Canterburie, principally consistent of these points.

First, in the confirmation of all elections made of Bishops by the Deane and Chapter of all Cathedrall Churches, as also the consecration of them.

Next, in a power of visiting his whole Prouince, of affembling Synods, of Supplying the defects and negligences of inferiour Bishops, of receiving appeales from their courtes, of affigning coadiutours to those Bishops, that grow weake and insufficient to difcharge their function, of appointing Vicars generall to those that haue either none, or an insufficient man employed in that office: and of dispensing in all ecclesiasticall cases, wherein the lawes beare dispensation: of taking oath of every Bishop, at his confirmation, to performe Ece 1 canocanonicall obedience vnto the See of Canterburie. But this feem to belong vnto him by an ordinarie archiepiscopall authority.

Certaine other things there be, that appertaine vnto him more then ordinarily to other Archbishops: as the original calling of any person in any cause belonging to spiritual inrisdiction, out of any part of his province, though not appealed. But this point is now limited by the Statute made, anno 23. Hem. 8.ca.9.

The receyuing of an appeale from the lowest Judge ecclesi-asticall within his province immediatly. The appointing of a keeper or guardian of the spiritualties during the vacancie of any bishopricke. By which means all episcopall rites of the Dioces forthat time do belong vito him: as Visitation, Institution to Benefices, and such like.

The vifitation of euery Diocesse within his prouince, when & in what order it pleaseth him. As also of all other priniledged Churches. The probate of Testaments and graunting of administrations, in case where the parry deceased hath goods of any considerable valew out of the diocesse wherein he dyeth. And that valew is ordinarily flue pounds, except it be otherwise by composition betweene the said Archbishop, and some other Bishop:

2s in the Diocesse of London it is tenne pounds.

The probate of every Bishops Testament, or the administration of his goods dying intestate, though not having any goods, chatels, or debts without the compasse of his owne iurisdiction. The bestowing of any one dignitie or prebend in any Cathe drall church upon the creation of a new Bishop, that himselfe thinketh good to make choice of.

There may be more particulars of this prerogative, that I know not: but these may be sufficient to expresse the thing that I desire to declare. Who so desire that to reade these more at large, and other priviledges of this Church in temporall maters, may resort to the booke intituled. De antiquitate Britannica Ecclesia, & nomination de privilegiis Ecclesia Cantuariensis historia: and especially to the 8. chapter of the said booke.

Prerogative Court, (chria pravogativa Archiepiscopi Cantuariensis) is the Court wherein all Wils be proued, and all administrations taken, that belong to the Archbishop by his prerogative, which see in Prerogative. And if any contention do grow betweene two or more touching any such will or administration, the cause is properly debated &

deter-

determined in this Court. The Iudge of this Court is called Index Curia prerogative Cantuariens. The Archbishop of Yorke hath also the like power and court, which is tearmed his Exchequer, but fatre inseriour to this in countenance and profite.

Prescription (prescriptio) is a course or vie of any thing for a time beyond the memory of man, as the exposition of the law terms doth define it. Kitchin fol. 104. faith thus : Prescription is, when for continuance of time. whereof there groweth no memory, a perticuler person hath perticuler right against another perticuler person. And custome is, where by continuance of time beyond memorie, divers persons haue gotten a right: with whome agreeth Sir Edward Cooke, lib. 4. fol. 32. 4. And vfage is by continuance of time the efficient cause of them both, and the life of both prescription and custome. Thus saith Kitchin. But as in the Civill lawe, fo I think likewise in the common, Prescription may be in a shorter time. As for example, where the Satute anno, 1. H. 8. cap. 9. faith, that all actions popular must be fiewed within three yeares after the offence committed, and the Statute anno, 7. emsfdem. cap. 2. That foure yeares being past af-

terthe offence committed in one case, and one yeare in another, no suite can be commenced and the Statute 21. Eliz. cap. q. faith, (by way of correcting the two former statutes) that all actions, &c. brought vpon any Statute, the penaltie whereof belongeth to the King, shall be brought within two yeares after the offence committed or else be voide. And the Satute, anno 39. Eliz. cap. prim. & secund. saith, that actions brought after two yeare by any common person. or after three yeares by the king alone for decay of husbandry or tillage, shall bee of noe force. Whosoeuer offendeth against any such Statute, and doth escape vncalled for two yeares, or three yeares, in one case of the two later of these three Statutes, may justly be faid to have prescribed an immunitie against that action. The like may be faid of the Statute made anno 23. Eliz. cap. prime. which faith, that all offences comprised in the Statute made in the 13. yeere of Eliz. cap. 2. are inquirable before both Iustices of peace and of Assise, within one years and a day, after the offence committed. Also the title that a man obtaineth by the passing of fine yeares after a fine acknowledged of any lands or tenements, may Ece 2 infily

iustly be faid to be obtained by prescription. And whereas the Statute, anno 8. R. 2. cap. 4. faith, that a Judge or Clerke convicted for falle entring of plees, &c. may be fined within two yeares; the two yeares being ended, he prescribeth against the punishment of the saide Statute: and whereas the Statute anno 11. H. 7. faith, that he which will complaine of maintenance, or embracery, whereby periurie is committed by a Iurie, must doe it within fixe dayes, those fixe daies ended, the parties prefcribe: and whereas the statute anno prim. Ed. 6. faith, that a man being not indicted within ? monethes of any offences there mentioned touching Seruice and Sacraments he shalbe cleare from thence forward the three monethes being ended, he prescribeth: And the same may be said of the statute anno 5. Ed. 6. cap. 5. which faith that a man Thall not be indited of any offence there mentioned touching the decay of tillage, after. 3. yeares. And whereas it is ordeined by the flatute anna 8. H. 6. cap gothat those which keepe possession of lands by force after. 2. yeares possession held by themselves & their auncestours, shall not be subject to the arbitrement of Diffeifours there fet

down, I hould this a prescription likewise against those censures. v. anno 23. H. 6. ca. 15. Laftly a sernant prescribeth liberty after a yeare. Bratton. li. 1. ca. 10. nu. 3. and the right that is gotten in any Stray to a Lord of a maner. no man claiming it within the yeare and day after proclamation made, is an vsucapion, or prescription. See Action perpetual, and temporall. And fee Cromptons Instice of peace. fol. 173. b. vbibabebis festum. But fee one rule for all in Lamb. Eirenarch. ti. 4.ca. 5. pa. 469. Of this prescription, and the learning touching the fame, you may reade a solemne report in S. Ed. Cookes, and Luttrels cafe. vol. 4. fo. 84. b. & fegg.

Presentation (Presentatio) is vsed properly for the act of a patron offering his Clerke to the Bishop, to be instituted in a benefice of his gift: the forme whereof see in the Register or

ginall fol. 302. a. 100 200 1000 901

nuntiation of the Iurours theinsfelues, or some other officer, as Iustice, Constable, searcher, surueiours &c. (without any information) of an offence inquirable in the court wherever it is presented. See Lamberd Eirenarcha, lib. 4. ca. 5. pa. 467.

President (Prases) is vsed in the Common law for the kings

Lieu-

Liuctenent in any Province of function: as President of Wales, of Yorke, of Barwick. President of the Kings Councell. anno. 22. H.8. cap. 8. & anno 24. H. 8. cap. 3. & 14.

Preignotarie (Protonotarius) is a word that feemeth to be made either of two French words (Prime) or Primier i. primus) and (Notaire, i. Notarius, tabellio, or of two Latine words (pra) & notarius) quasi primus aut principalis notarius. The office is likewise borowed from the later Romanes, who made his name of halfe Greeke, and halfe Latine, viz πρωτος i. primus , principalis) and (Notarius). It is vied in our common dawe for the cheife clerks of the Kings courts, whereof 2. be of the common pleas, and one of the Kings bench. For the pregnotarie of the common plees, anno s. H. 4.cap. 14. is termed the chaife clerke of that cona ... He of the Kings Bench recorderhallactis ons civile hewed in that courtd as the Cletke of the Growne of fice doth all criminall causes. Those of the common plecs doe enter and inrolle allemaned of declarations, pleadings, Affifeso and ludgements: and all actions, the fame terme that the appair rence is made. Alfothey make out all indicial writes, as the ventre facias after issues ioyned, and

Habeas corpus, for the bringing in of the lurie, after it is returned vpon the venire facias. They also make forthe writs of executions, and of feifin, writs of finer. sedeas, for appearance to exigents, as well as the exigents, and writs of primledges, for remouing of causes from other inferiour courts of Record . in case where the partie hath cause of primledge: Also writs of procedendo, of scire facius in all cafes, and writs to inquire of dammages and all proces vpon prohibitions, and vpon writs of audita guerela, and false Indgement. Finally they inrolle all recognifances acknowledged in that court, and all common Recoucres: and may make exemplifications of any Record the same terme, before the rols be deliuered from them.

Prender, commeth of the French (prendre in accepere, acceptares capere, prehédere) it signification our common lawe sometime a power, or right to take a thing before it be offered: as such things as lie in Prender, or such as lie in render. West. parte 2. titula Fines. sett. 126. where you have these words: If the lord graunt the services of his tenent by fine, or other wise, the Lord before acturnment; shall have such things as lie in prender: as the ward of the body of the heire

and of the land: cicheats, &c. but not fuch things as lie in prender, as rents, and releifes, heriots and other feruices. For he canor avowe for them before the atturnment.

Prender de Baron, signifieth literally in barbarous French to take a husband: but it is vsed in our common lawe, as an exception to disable a woman from persiewing an appeale of murder against the killer of her former husband, Stammf.pl.cor. li. 3.cap. 59. The reason whereof whether it be . because by her fecod mariage, fhe may justly be thought to have given vp the interest shee had in her former husband, or for that shee is now couert againe, or for both, I leaue to confideration, district

Prender del profits . fignificth verbatim to take the profits. It fignifieth substantiuely the taking of the profits . See (rompcons Iurisdict.fol. 185. Sec Pernour of profits. mour commonday

Prest, is vsed for some dutie in money to be paide by the Shyreeue vpon his accoumpt in the exchequer, anno 2. & 3. Ed.

6.sap. 4.

Prest mony, is so called of the French word (Prest, i. explicatus, promptus, expeditus) for that it bindeth those, that have receiued it, to be ready at all times

appointed. The was all same

Primage, is a dutie due to the mariners and faylers for the loading of any thippe at the fetting forth from any hauen, anno 22.

H.8. cap. 14.

Primier seisin (Prima seisina) ad verbum fignifieth the first possession. It is yied in the common lawe, for a braunch of the kings prerogatine, whereby he hath the first possession of all lands. and tenements through the Realme, holding of him in cheife, whereof his tenent died feised in his demesn as of fee: and so consequently the rents, and profits of them, vntill the heire, if he be of age, doe his homage, if he be vnder yeares, yntill he come to yeares . See Stawnf. prarog. cap. 3. and Bratton lib.4.tract.3.cap.pri.

Primo beneficio . See Bene-

Prince (Princeps) is a french word, and taken with vidiuerly, sometime for the king himselfe, but more properly for the kings eldest sonne, who is prince of Wales, as the eldest sonne to the French king is called Dolphine, both being princes by their nativitie. M. Fearn in the glory of generositie. pag. 128. For Edward the first to appeale the tumultuous spirits of the Welch men, who being the auncient Indigean after Hinesioyned, and

ne of this land, could not in

long time beare the voke of vs. whome they call strangers, fent his wife being with childe into Wales, where at Carnarnan free was delivered of a fonne, therevpon called Edward of Carnar. van and afterward asked the Welch men, feing they thought much to be gouerned by straunyers, if they would be quietly ruled by one of their owne nation; who answering him, yea: then (quoth he) I will appoint you one of your owne country men, that cannot speake one word of English, and against whose life you can take no iust exception: and so named vnto them his sonne borne in Carnarvan not long before, from which time it hath continued, that the kings eldeft fonne (who was before called: Lord Prince. Stampf. prarog: cap. 22.fel. 75.) hath beene called prince of Wales. Stomes Annals, pag. 202. See anno 27. H.S. cap. 26. & and no 28.ein (dem cap. 2. Principality of Chester. anno 11. Rich. 2.cap. 9. See County palatine and Cromptons divers jurif dictions, fol 137. 1996 ment 10 Prior perpetuall, or datife and re-

Prior perpetuall, or datife and removeable anno 9. R. 2. cap. 4. and anno 1. Ed. 4. cap. 1. paulo antefuem. Lord prior of Saint Iohns of lerusalem, anno 26. H.8. cap. 2.

Priors aliens (Priores alieni)

were certaine religious men borne in Fraunce, and gouerners of religious houses erected for out-landish men here in England: which were by Henry the fifth thought no good members for this land, after fuch conquest obtained by him in Fraunce, and therfore suppressed. Whose livings afterwards by Henry the 6. were given to other Monasteries and houses of learning. Stowes Annals. pag. 582. See anno 1. H. 5. cap. 7. but especially to the erecting of those two most famous Colledges called the Kings Colledges of Cambridge and Eton.

Prioritie, (prioritas) fignifieth in our common lawe, an antiquitie of tenure in comparison of another not fo auncient. As to hold by Prioritie, is to hold of a Lord more aunciently then of another. old. nat. br. fol. 94. So to hold in posterioritie, is vsed by Seawof prerog cap. 2. fo. 11. And Crompton in his Iurisdiction. fol. 117. vieth this word in the fame fignification. The Lord of the prioritie shal have the custodie of the bodie, &c. fol. 120. If the tenent hold by prioritie of one, and by posterioritie of another, &c. To which effect, fee also Fitz. nat .br. fol. 142. F. Bartolius in his Tractate, De infigniis & armis, vieth these very wordes, prioritas, and posterioritas)

concer-

concerning two that beare one

Prifage, seemeth to be that custome or share, that belongeth to the King out of such merchandize, as are taken at sea, by way of lawfull prize, anno 31 Elizacap. 5.

Prisage of Wines, anno 1. H. 8. cap. 5. is a word almost out of vie, now called Butlerage, it is a custome wherby the prince chalengeth out of every barke loaden with wine, containing lesse them forty tunne, two tunne of wine at his price.

Prise (prisa) commeth of the French (prendre, i. capere) it signifieth in our Statutes, the things taken by pourveyouts, of the Kings subjects. As anno 3. Ed. 1. cap. 7, eò anno 28. eiusdem. stat. 3. cap. 2. It signifieth also a cuftome due to the King, anno 25. eiusdem.cap. 5. Regist. origin. fol. 117. b.

Prisoner (priso) commeth of the French (prisonnier) and fignia fieth a man restrained of his sibertic vpon any action cinill or criminall, or vpon commaundement. And a man may be prisoner vpon mater of Record, or mater of fact: prisoner vpon mater of Record is he, which being present in court, is by the court committed to prison only vpon an arrest, be it of the Shyreeue, Constable, or other.

Seamnf. pl. cor. lib. prim. cap. 32.

Prinie commeth of the French (prine, i. familiaris) and fignifieth in our common lawe, him that is partaker, or bath an intereft in any action, or thing : as. prinies of bloud, old nat. br. fol. 117. be those that be linked in consanguinitie. Euery heire in tayle is priuv to recouer the land intayled. eodem fol. 137. No primitie was betweene me and the tenent. Litleton, fol. 106. If I deliuer goods to a man to be caried to fuch a place, and he.after he hath brought them thither, doth steale them . it is felonie: because the privitie of deliuerie is determined, as soone as they are brought thicher. Staws. pl. cor lib. prim. cap. 15. fol. 25. Merchants privie be opposite to merchant straungers, anno 2. Ed. tertii. cap. 9. & cap. 14. & ann. einsdem, stat. 2. cap. 3. The newe Expositour of lawe termes maketh divers forts of privies: 25 privies in estate, privies in deed, prinies in lawe, prinies in right, and privies in bloud. And fee the examples he giverh of every of them. See Perkins Conditions. 831.832.833. and Sir Edward Cooke lib. 3. Walkers cafe. fol. 23. a 6 lib. 4 feb 122. b. G 124.4. where he maketh foure kindes of prinies, zvz, prinies in bloud, as the heire to his father, &c. priprivies in representation, as executours or administratours to the deceased: privies in estate, as he in the reversion, and he in the remainder, when land is give to one for life, and to another in see: the reason is given by the Expositour of lawe termes, for that their estates are created both at one time. The fourth fort of privies are privies in tenure: as the Lord by escheate: that is, when the land escheates to the Lord for want of heires, &c.

Prinie seale (prinatum sigillum) is a seale that the King vseth some time for a warrant, whereby things passed the priny signet and brought to it, are sent farder to be consirmed by the great seale of England: sometime for the strength or credit of other things written upon occasions more transitory and of lesse continuance, then those be that passe the great seale.

Priviledge (privilegium) is defined by Cicero in his oration pro domo sua, to be lex privata homini irrogata. Frevotus in paratitlis ad titulum decretalium de privilegiis, thus defineth it: privilegium est ius singulare, hoc est privata lex qua vni homini, vel loco, vel Collegio, Esimilibus aliisconceditur: cap. privilegia, distinct: 3. priva enim veteres dixere qua nos singula dicimus. Insit Agellius lib. 10. ca. 20. Ideo fi privilegia modo benesicia, modo perso-

nales constitutiones dicuntur, &c. It is vsed so likewise in our common law, and sometime for the place, that hath any speciall immunity. Kitchin fol. 118. in the words: where depters make fained gifts and feofements of their land, and goods to their freinds, and others, and betake themselues to priviledges, &c. Priviledge is either personall, or reall: a personall priviledge is that, which is graunted to any person, either against, or beside the course of the common law: as for example, a person called to be one of the Parlament, may not be arrested either himselfe, or any of his attendance, during the time of the Parlament. A priviledge reall is that, which is graunted to a place, as to the Vniuerfities, that none of either may be called to Westm. hall, vpon any contract made within their owne precincts. And one toward the court of Chauncery, cannot originally be called to any court but to the Chauncery, certaine cases excepted. If he be, he will remoue it by a writ of Priviledge grounded vpon the statute anno 18. Ed. 3. See the new booke of Entries verbo Privilege.

Probat of testaments (probatio testamentorum) is the producting, and infinuating of dead mens wils before the ecclesiastical ludge, Ordinary of the place,

Fffi where

where the party dyeth. And the ordinary in this case is knowne by the quantity of the goods, that the party deceased hath out of the Dioces, where he departed. For if all his goods be in the same Dioces, then the Bishop of the Dioces, or the Archdeacon (according as their composition, or prescription is) hath the probate of the Testament ; if the goods be dispersed in divers Dioces, so that there be any summe of note (as five pounds ordinarily) out of the Dioces where the party let his life: then is the Archbishop of Canterbury the ordinary in this case by his prerogatiue. For whereas in ould time, the will was to be proued in euery Dioces, wherein the party diceased had any goods : it was thought convenient both to the subject, and to the Archiepiscopall See, to make one proofe for all before him, who was and is of all the generall Ordinary of his prouince. But there may be aunciently some composition betweene the Archebishop and an inferiour ordinary, whereby the fumme that maketh the prerogatiue, is aboue fine pound. See prarogatine of the Archbishop This probate is made in two forts either in common forme or pertestes. The proofe in common forme, is onely by the oath of the executour, or party exhibi-

ting the will, who sweareth vp. on his credulity, that the will by him exhibited is the last will and testament of the party deceifed. The proofe per testes is, when over and beside his oath, he also produceth witnesses or maketh other proofe , to confirme the fame, and that in the presence of fuch as may pretend any interest in the goods of the deceased, or arthe least in their absence. after they have beene lawfully summoned to see such a will proued, if they thinke good. And the later course is taken most commonly, where there is feare of strife, and contention betweene the kindeed and freinds of the party deceated about his goods. For a will proued only in common forme, may be called into question any time within 30. yeares after by common opinion, before it worke prescription.

Procedendo, is a writ whereby a plee, or cause formerly called from a base court to the Chaucerie, Kings bench, or commo plees, by a writ of primiledge or certiorare, is released, and sent downe againe to the same court, to be proceded in there, after it appeareth that the defendant hath no cause of primiledge, or that the mater comprised in the bille, be not well proued. Brooke hoctatulo. and Termes

of lawe: Cooke vol. 6. fol. 63. a. See anno. 21. R. 2. cap. 11. in fine, leters of procedendo graunted by the keeper of the privile seale. See in what diversitie it is vsed in the table of the original Register, and also of the Iudicial.

Proces (Procesus) is the maner of proceeding in every cause, be it personall, or reall, ciuile, or criminall, even from the originall writ to the end. Britton fol. 128.4. wherein there is great diuerfitie, as you may fee in the table of Fitzh.nat. br. verbo Proces. and Brookes Abridgement, hoc thulo. And whereas the writings of our common lawyers sometime call that the proces, by which a man is called into the court and no more: the reason thereof may be giuen, because it is the beginning, or the principall part thereof, by which the rest of the busines is directed, according to that faying of Arifotle . h apxh hulov TE mavros . Diuers kinds of proces vpon Inditements before Iustices of peace: Secin Cromptons Inflice of peace.fol. 133. b. 134. 135. But for orders fake, I referre you rather to M. Lamberd in his grachat of processes adjoyned to his Eirenarcha, who acording to his subiect in hand, diuideth criminall proces, either into proces touching causes of treason, or felonie, and proces touching in-

feriour offéces, the former is viually a capias, capias alias, er exioi facios. The second is either vpon enditement, or presentment, or information: that ypon enditement or presentment, is all one, and is either generall, and that is a venire facias', vpon which if the partie be returned sufficient, then is sent out a Distringas infinite untill he come: if he be returned with a Nibel babet, then issueth out a Capias, Capias alias, Capias pluries, and lastly an Exigifacias. The speciall proces is that, which is especially appointed for the offece by statute. for the which he referreth his reader to the 8. Chapter of his 4. booke being very different.

Processim continuando, is a writ for the continuance of a proces after the death of the cheife Iustice, in the writ of over and terminer. Register originals. fol. 128. a.

Prochein Amy (Proximus amicus, vel propinquior) is, word for word, a necre freind. It is vsed in our common lawe, for him that is next of kinde to a childe in his nonage, and is in that respect allowed by lawe, to deale for him in the managing of his affaires: as to be his Gardian, if he hold of any in socage, and in the redresse of any wrong done vnto him, be it by his Gardian, if he be ward and hold in Chiual-

ric, or any others. Statut. West. pri. cap. 48.3. Ed. pri. and Westm. 2. cap. 15. anno 13. Ed. pri.

Profe, alsas Prove, is vsed for an Enquest. anno 28.Ed. 3. cap.

Proclamation (Proclamatio) fignifieth a notice publikely giuen of any thing, whereof the King thinketh good to advertise his subjects. So it is vsed, anno 7.
Rich. 2.ca. 6. Proclamation of rebellion is a publike notice giuen by the officer, that a man not appearing upon a Sub pana, nor an attachment in the Starre Chamber or Chauncerie, shalbe reputed a rebell, except he render himselse by a day assigned.
Cromptons surifd fol. 92. See Commission of rebellion.

Proclamation of a fine, is a notice openly, and folemnly given at all the Affifes , that shall be holden in the Countie within one yeare after the ingroffing of the fine, and not at the foure generall quarter fessions. And these proclamations be made vpon transcripts of the fine, sent by the Inflices of the Common plees, to the Iuflices of Affife, and the Inflices of peace. West. parte 2. synsbol. titulo Fines. sect. 132. where also you may see the forme of the proclamarion. Proclamare est pala, & valde clamare, vied by Tulle, Lime, and the Civilians. 7. Quibus ad liberta

proclamare non licet. And Proclamator signifieth him qui litem intendit, vel causam agit. Cicero de oratore lib. pri. Non enim causidicum nescio quem, neg proclamatorem, aut rabulam hoc sermone conquirimus, & c. I reade in Fuzh. nat. br. fol. 85. C. that the kings proclamation is sufficient to stay a subject from going out of the Realme. See the force of proclamations. anno. 31. H. 8. cap. 8. see also Proclamations in divers cases. Newe booke of Enteries: verbo Proclamation.

Procters of the clergie (procuratores cleri) are those which are chosen and appointed to appeare for cathedrall, or other Collegiat churches, as also for the common clergie of every Dioces, at the Parlament, whose choice is in this fort. First, the king directeth his writ to the Archebishop of each province for the summoning of all Bishops, Deanes, Archdeacons, cathedrall and collegiat churches, and generally of all the clergie of his prouince, after their best diferetion and judgement, affigning them the time and place in the faid writ. Then the Archebishops proceede in their accustomed course. One example may serue to shew both. The Archebishop of Canterbury vpô his, writ received, directerh his leters to the Bishop of London as-

his

his Deane provincial. I. S. fatuimus. de pænis co verb. tanquam in glos. first citing himselfe peremptorily:and then willing him to cite in like maner all the Bishops, Deanes, Archedeacons, cathedrall and collegiate churches, and generally all the Clergie of his Province to the place, and against the day prefixed in the writ. But directerh withal that one Proctor fent for every Cathedrall or Collegiat Church, and two for the bodie of the inferiour Clergie of each Diocesse, may suffice. And by vertue of thefe leters authentically fealed, the faid Bishop of London directeth his like leters seuerally to the Bishop of every Diocesse of the Prounce, citing them in like fort, and commaunding them not onely to appeare, but also to admonish the faid Deanes, and Archdeacons, personally to appeare, and the Cathedrall and collegiat Churches, as also the common Clergie of the Diocesse, to fend their Proctors to the place, and at the day appointed: and also willeth them to certifie the Archbishop the names of all and cuery fo monished by them, in a shedule annexed to their leters certificatorie. The Bishops proceed accordingly, and the Cathedrall and collegiate churches as

Valso the Clergie make choice of their Proctors: which done. and certified to the Bishop, he returneth all answerably to his charge at the day. These proctors of the Clergie, howfocuer the case of late dayes is altered, had place and fuffrage in the lower house of Parlament, as well as the knights, citizens, Barons of the Cinque ports, and Burgesses. For so it plainely appeareth by the Statute, anno 21. R. 2. cap. 2. & cap. 12. And fithence they were removued, the Church hath daily growne weaker and weaker: I pray God that in short time the famish not, but that her liberties be better maintained.

Procurator is vsed for him that gathereth the fruites of a benefice for another man. anno 3. R. 2. Stat. I. cap. 2. And procuracy is vsed for the specialtie, whereby he is authorized. Ibid. They are at this day in the West parts called Proctors.

Profer (profrum vel proferum) is the time appointed for the accompts of Shyrceues, and other officers in the Exchequer, whichis twice in the yeare, anno 51. H. 3. statut. quint. And it may be gathered also out of the Register, fol. 139. in the writ De Atturnato Vicecomitis pro profro faciendo. I reade also of profers, anno 32. H. 8. cap. 21. in these words:

Fff 3 TriniTrinitie terme shall beginne the Monday next after Trinity Sunday, whensoeuer it shall happen to fall, for the keeping of the essoins, profers, returnes, and other ceremonies heretofore vsed and kept. In which place (profer) seemeth to signifie the offer, or indeauour to proceede in action by any man, whom it concerneth so to doe. See Briton. cap. 27. fol. 50. b. & 55. a. & fol. 80. b. and Fletalib. 1. sap. 38. §. Vilagati & segg.

Profer the balfe merke. See

Halfe merke.

Profession (professio) is in the common lawe, vied particularly for the entring into any religious Order of Friars, &c. New booke of Entries, verbo Profession.

Profits apprender. See Pren-

der.

Probibition, (probibitio) is a Writ framed for the forbidding of any court, either spirituall or secular, to proceed in any cause there depending, vpon suggestion, that the cognition thereof belongeth not to the faid court. Fitz. nat. br. fol. 39. G. but is most ysually taken, especially in these dayes, for that writ, which lyeth for one that is impleeded in the Court Christian, for a cause belonging to the temporall jurifdiction, or the cognisance of the Kings court, whereby as well the partie and his Councell,

as the Judge himselfe, and the Register, are forbidden to proceed any farder in that cause: for that it appertaineth to the difinheriting of the Crowne of fuch right as belongeth vnto it. In how many cases this lyeth. fee Broke, boc titulo, and Fitz.na. br. fol. 39. & segg. This writ, and the pramunite, might in these daies well be spared: For they were helpes to the kings inheritance and Crowne, when the two fwords were in two divers hands. Whereas now both the Iurisdictions being setled in the King, there is small reason ofeither, except it be to wearie the Subject by many quircks and delayes, from obtaining his right: of this prohibition, you may reade Bracton also, lib. 5. tract. 5. cap. 3.4.5.6.7.8.9.10.11.12.who faith, that it lyeth not after fentence giuen in any cause, howsoeuer the case is altered: and againe, the flatute made, anno so. Ed. 3. which ordaineth, that aboue one prohibition should not lye in one cause. See the diuerfitie of prohibitions in the table of the original Regist. See the new booke of Entries, verbo, Prohibition, and Fitz. nat. br. fol. 39.

Frohibitio de vassodirecta parti, is a writ Indiciall directed to the tenent, and prohibiting him from making waste vpon the

land

land in controuersie, during the suite. Register Indicial. fol. 21. It is sometime made to the Shyrecue, the example whereof you have there next following.

Pro Indiaiso, is a possession, and occupation of lands, or tenements belonging vnto two or more persons, whereof none knoweth his seuerall portion, as Coparceners before partition.

Braston lib. 5. trasta. 2. cap

pri.nu. 7.

Prolocutour of the connocation bouse (prolocutor domus connocatiowis) is an officer chosen by perfons ecclefiafficall publiquely affembled by the kings writ at euery parlament. And as there be two houses of conuocation, so be there two prolocutours, one of the higher house, the other of the lower house, who presently vpon the first assembly is by the motion of the Bishops, chosen by the lower house, and presented to the Bishops for their prolocutour, that is, the man by whom they meane to deliuer their resolutions to the higher house, and to have their owne house especially ordered and gouerned. His office is to cause the clerk to call the names of fuch as are of that house when he sceth cause, to cause all things propounded to be read by him, to gather the fuffrages, and fuch like.

Promoters (promotores) be those, which in popular and penall actions doe deferre the names, or complaine of offenders, having part of the profit for their reward. These were called among the Romaines Quadruplatores, or Delatores. They belong especially to the Exchequer and the kings bench. Smith de Repub: Anglo. li. 2. cap. 14.

Pro partibus liberandis, is a writ for the partition of lands betweene coheires. Register origi-

nall, fol. 316.

Prophecies (prophetia) be in our common law, taken for wiferdly foretellings of maters to come, in certaine hidden and enigmaticall speeches. Whereby it falleth out many times, that great troubles are stirred in our common wealth, and great attempts made by those, to whom the speach framed, either by the description of his cognisance, armes, or some other quality, promiseth good successe anno 3. Ed. 6. cap. 15. & anno 7. eiuschem. cap. 11. & anno 5. Eliza. ca. 15. But these for distinctions sake are called false, or phantasticall prophecies.

Property (proprietas) fignifieth the highest right that a man hath or can have to any thing, which is no way depending upon any other mans courteste. And this none in our kingdome can be faid to have in any lands, or tenements, but onely the King in the right of his Crowne. Because all the lands through the realme, are in the nature of see, and doe hould either mediately or immediately of the Crowne. See Fee. This word neverthelesse is in our common law, vsed for that right in lands and tenements, that common persons have, because it importeth as much as (vtile dominium) though not (directum).

Proprietate probanda, is a writ. See the originall Regist. fol.83. a.& 85.b. It lyeth for him, that will proue a propertie before the Shyrecue. Brookes Propertie.

1. For where a propertie is alledged, a replegiare lyeth not.

Idem ibidem.

Proprietarie (proprietarius) is he that hath a propertie in any thing, but it is most notoriously vsed for him, that hath the fruites of abenesice, to himselfe and his heires or successours, as in time past Abbots and Priors had to them and their successours. See Appropriation.

Prorata portionis. See Oneran-

do pro rata portionis.

Protection (protectio) hath a generall and a special signification. In the generall it is vsed for that benefite and safetie, that every subject, or Denizen, or alien specially secured, bath by the

Kings lawes And thus it is vied. anno 24. Ed. tertii. capite. 22. Protection in the special fignification is vied for an exemp. tion, or an immunitie giuen by the King to a person against fuites in lawe, or other vexations vpon reasonable causes him thereunto mooning, which I take to be a braunch of his prerogative. And of this protection, Fitzh, maketh two fortes in his nat. br. fol. 28. The first forme or forthe calleth a prote-Ctió, cum claufala volumus, wherof he mentioneth foure particulars. A protection, quia profetturus, for him that is to passe over fea in the kings feruice: A protection, quia moratur, for him that is abroad in the Kings service vpon the fea, or in the marches, anno 7. H. 7. cap. 2. A protection for the Kings debter, that he be not fiewed or attached vntill the King be payed his debt. See anno 15. Ed. 3. This some Ciuilians call moratoriam: which see In singularibus Maranta, verb. Princeps. pug. 79. col. 2. Anda protection in the kings service beyond the feas, or on the marches of Scotland: whereof you may reade fomething, anno 1. R. 2. cap. 8. See the Regist. orig. fol. 23. and Britton, cap. 123. The second forme of protection is tearmed cum clausula, Nolumu: which is graunted most commonly monly to a spiritual company for their immunitie from taking of their catell by the Kings ministers. But it may be graunted also to one man spiritual or temporall. Of these things reade the same authour: and the formes of these wits. See also in the Register original. fol. 22. & 23. And see the new Exposition of lawe termes, to what action the kings protection doth not extend. See also the new booke of Entries, verbo Protection.

Protonotarie, (protonotarius.) See

Preignetarie.

Protestation, (protestatio) is (as Instice Walfb defineth it) a defence or safegard to the partie, which maketh it from being cocluded by the act he is about to doe, that issue cannot be in your it, Plonden. fol. 276. b. whereof see the Register original. fol. 306. b. And see Protest.

Protest, (protestari) hath two divers applications: one is by way of cautell, to call witnesse (as it were) or openly to assirm, that he doth eithernot at all, or but after a sort yeeld his consent to any act, as vnto a proceeding of a ludge in a court, wherein his invision is doubtfull, or to answer upon his oath farder then he by lawe is bounde. See Plowden. casu Gresbroke. fol. 276. b. and the Register orig.

fol. 206. b. Another is by way of complaint to protest a mans bill. For example, if I giue mony to a Merchant in Fraunce, taking his bill of exchange to be repayed in England, by one to whome he affigneth me, if at my comming I find not my selfe satisfied to my contentment, but either delayed or denyed: then I goe into the Burse, or some open concurse of Merchants, and protest that I am deceiued by him. And thereupon if he haue any goods remaining in any mans hands within the Realme, the lawe of Merchants is, that I be paid out of them.

Pronuer (Probator) Sec Approuner.anno 5. H. 4.ca.2. Sce

Appronours.

Province (Provincia) was vfed among the Romans for a Country without the compasse of Italie, gained to their subiection by the fword. wherevpon the part of Fraunce next the Alpes was foe called of them, when it was in their dominion, and of that carieth the same name at this present: But with vs a province is most vsually taken for the circuit of an Archebishops Iurisdiction, as Province of Canterbury, and the province of Yorke.anna. 32.H.8. cap. 23.6 anno 33. einf-Ggg 1

dem.cap. 31. vet it is vsed divers times in our statutes for severall parts of the Realme.

Provinciall (Provincialis) is a cheife gouernour of an order of Friers, anno quar. Henr. quar.

cap. 17.

Protoforestarius, was he whom the auncient kings of this Realme made chiefe of Winfour forest, to heare all causes of death, or mayhem, or of slaughter, or of the Kings deare within the Forest. Camd. Britan. pag. 213. See Instice of the Forest.

Prove. See Profe.

Provision (Provisio) is vied with vs as it is vied in the Canon lawe, for the providing of a Bishop, or any other person of an ecclefialticall liuing, by the Pope, before the Incumbent be dead. It is also called gratia expectativa, or Mandatum de providendo . The great abuse whereof in the Pope through all Christendome heretofore, you may read, not only in Dua. renus de sacris eccleste ministeriis, & beneficiis.lib.3.cap.2. but also for England particularly, in divers statuts of the Realme. viz. anno. 25.Ed. 3.cap. 22 fttat. 4. & ftatu. 5.commonly called the statute de proniscribus. & anno. 27. eiusdem.cap.i.& anno 3 8.eiusdem.stat. 2.6ap.1. 6 2. 3.4. 6 anno 38. esus dem , & anno 2. Rich. 2. cap. 7. Ganno 3. eiusdem cap. 3. anno. 7. eiusdem. cap. 12. Ganno 12. eiusdem, cap. 15. Ganno 13. ciusdem, stat. 2. cap. 2. G3. Ganno 16. eiusdem cap. 5. Ganno 2. H. 4. cap. 3. G4. Ganno 5. eiusdem, cap. pri. Ganno 7. eiusdem, cap. 6. G8. Ganno 9. eiusdem, cap. 8. Ganno 3. H. 5. cap. 4. See Pramunire.

Provisour (Provisor) is he that sieweth to the court of Rome for a prouision. old. nat. br. fol.

143. See Provision.

Proviso, is a condition inferted into any deede, vpon the observance wherof the validitie of the deede confisteth. which forme of condition feemeth to be borrowed from Fraunce, for (Pourve u Gallicum semper conditionem inducit. Tiraquel.tomo. 3. pag. 216. Our common lawyers fay that it sometime fignifieth but a couenant, whereof you have a large difdispute in the 2. booke of Sir Ed. Cokes reports in the Lord Crommels case. It hath also another fignification in maters ludiciall: as if the plaintife or demaundant desitt in prosecuting an action, by bringing it to a triall, the defendant or tenent may take out the venire faciais to the Shyreeue: which hath in it these words, Prousso quod, &c. to this ende, that if the plaintife take out any writ to that purpose, the shyreeuc shall summon but one lurie voon them both. See old natura brenium in the writ Nifi prius. fol. 159.

Purchas. See pourchas.

Purfles of a momans growne.

anno 33. H. 8. cap. s.

Purgation (Purgatio) is a cleering of a mans selfe from a crime, whereof he is probably and publiquely suspected, and thereof denounced to a Judge. Of this there was great vie in England touching maters of felonie imputed to Clerks in former time, as appeareth by Stampf. pl. cor. lib. 2.cap. 48. See Clergie. It is still obserued for mater pertaining to the ecclesiafficall court, as suspicion, or common fame of Incontinencie, or fuch like. Purgatio is either canonicall (canonica) or vulgar (vulgaris) Canonicall is that which is prescribed by the Canon lawe: the forme whereof is vsuall in the spirituall courte, the man suspected taking his oaththat he is cleere, of the fault objected, and bringing fo many of his honest neighbours, being not aboue twelue, as the court shall affigne him, to sweare vpon their consciences and credulitie that he sweareth truly, or hath taken a true oath. Vulgar purgation was by fire, or water, or by combat, vied by Infidels, and Christians also, vntill by the Canon lawe it was abolished. tit. 15. de purgatione Can. & vuloa. in Decretalibus. Combat. though it be leffe in vie then it was, vet is it. and may be still practifed by the lawes of the Realme, in cases doubtfull, if the defendant chuse rather the Combat then other triall. See Ordel See Combat.

Purlue, is all that ground neere any Forest, which being made Forest by Henry the second, Richard the first, or King Iohn, were by perambulations graunted by Henry the third, feuered againe from the same . Manwood. parte 2. of his Forest lames.eap. 20. And he calleth this ground either Pourallee.i. perambulationem, or purlieu. and purluy, which he faith be but abufiuely taken for pourallee. vbi supra. nu. 2. But with the licence of that industrious and learned gentleman, I am bold to fay, that this word may be no lesse fitly made of two French words (pur.i. purus) and (lieu. i. locus) and my reason is, because that such grounds as were by those kings subiccted to the lawes, and ordinances of the Forestare now cleered and freed from the same: for as the Ciulians cal that purum locum, qui sepulchrorum religioni non est obstri-Etus . 5.9. de rerum divisin institut.

Ggg 2

lo, no doubt, in imitation of that very point, our auncestours called this purlieu, ideft, purum locum, because it was exempted from that feruitude or thrauldom, that was formerly laid vpon it. So (ager purus eft, qui nea, Sacer, neg; sanctus, neg; religiosus, (ed ab omnibus hum modi nominibus vacare videiur.l. 2. S. 4. x. de religio. & sumptibus funerum.) And therefore M. Cromptons Purraile is not much amisse fol. 153. of his Iurisd, because we may also deriue it from the French words (pur) and (Allee) that is as much to fay, as a cleere, or a free walke or passage. And where it is sometime called Pouralee. that may and doth come from (pur)and (Allee)i. Itio, profectio, ambulatio) because he that walketh or courfeth within that compasse, is cleere enough from the lawes, or penalties incurred by them, which hunt within the precincts of the Forest. See the stat. anno 3 3. Ed. pristat. 5.

Pourlie man, is he that hath groud within the Purlieu, and being able to dispend 40. shillings by the yeare of free hould, is vpon these two points licensed to hunt in his owne purlieu. Manwood parte pri of his Forest lawes, pag. 151. & 177. but what observations he must vse in his hunting, see him pag. 180. 181. 186. See him likewise par-

te 2.eap. 20. nu. 5. 8. 9. 60. Sce Purlieu.

Purpresture. See Pourpresture. Pursey, anno 43. Elizabeth.cap.

Purswivant. See Poursui.

Purveyours. See Pourvey.

Pyker, alias Pycar, a kind of shippe. anno 31. Ed. 3. Stat. 2. cap. 2.

Q

Vadragesima, is the first sonday in lent, so called (as I takeit) because it is the sourtith day before Easter. The sonday before that is Quinquagesima, the second before Sexagesima, the 3. septuagesima.

Que plura, is a writ, that lieth where an Inquisition hath beene made by the Escheatour in any countie, of fuch lands or tenements, as any man died feised of. and all that was in his possession be not thought to be found by the office. The forme whereof see in the Register originall, fol. 293. and in Fitzh. nat. br. fol. 255. It differeth from the writ called melius inquirendo, as Fitz, there faith, because this is granted, where the Escheatour formerly proceeded by vertue of his office: and the other, where he found the first office by vertue of the writ ealled, Diem clausit exeremum. See the newe booke of Entries. verbo. Qua

plura.

Querens non invenit plegium. is a returne made by the Shyrene vpon a writ directed vnto him with this condition inserted. St A fecerit B. securum de loquela sua prosequenda, erc. Fizh.nat.br.fol.38.0.

Qua seruicia, is a Writ. See Per

que servitia.

Quale ins, is a writ Indiciall, that lieth where a man of religion hath judgement to recouer land, before execution be made of the Judgement. for this writ must betweene Iudgement and execution, goe forth to the Escheatour, to inquire whether the religious parson hath rightto recouer, or the Iudgement is obteined by collusion betweene the Demaundant and the Tenent, to the intent the true Lord be not defrauded. See Westm. 2. cap. 3 2. Cum virireligiof, &c. the forme of this writyou may have in the Regifter Indicial, fol. 8. 16.17.6 46. and in the old. nat. br. fol. 161. See the newe boke of Entries. verbo. Quale ins.

Quare eiecit infra terminum, is a writ, that lieth for a leasse, in case where he is cast out of his ferme before his terme be expyred, against the seossee of the

leassour, that eiecteth him. And it differeth from the Eiestione Firme, because this lyeth: where the leassour after the lease made, infeoffeth another, which eiecteth the leassee. And the Eiestione firme lieth against any other Straunger, that eiecteth him. The effect of both is all one: and that is to recouer the residue of the terme. See Fitzh.nat. br. fol. 197. See the Register originall, fol. 227. and the newe booke of Entries. verbo. Quare eiecit infraterminum.

Quare impedit, is a writ, that lyeth for him, who hath pourchased a maner with an Advousenthereunto belonging, against him that disturbeth him in the right of his Advowsen, by presenting a Clerk thereunto, when the Church is voide. And it differeth from the writ called (Affisa vltime presentationis) because that lieth, where a man or his Auncestours formerly prefented, and this for him, that is the pourchasour him selfe. See the Expositions of the termes of law, and owld nat. br. fol. 27. Bracton. lib.4.tracta 2.eap. 6. Britton cap. 92. and Fitzh.nat.br.fol. 32. and the Register originall. fol. 30. where it is said that a Quare imtedit is of a higher nature, then Assisa vitime presentationis; because it su pposeth both a possesfion and a right. See at large

Ggg 3 the

the newe booke of Entrife.verbo.

Ouare impedit.

Quare incumbraint, is a writ, that lyeth against the Bishop, which within fixe monethes after the vacation of a benefice, conferreth it vpon his Clerke, whilest two others be contending in law for the right of presenting. Exposition of the terms of law, old. nat. br. fol. 30. and Fitzh. nat. br. fol. 48. Register originall. fol. 32.

Quare intrust matrimonio non satisfacto, is a writ that lyeth for the Lord against his tenent being his ward, that after couenable mariage offered him, marieth another, and entreth neuer the lesse ypon his land, without agreement first made with his Lord and Gardian. Terms of the

law.

Quare non permittit, is a writ that lyeth for one that hath right to present for a turne against the proprietary. Fleta. lib. 5. cap. 16.

Quarentine (quarentina) is a benefit allowed by the lawe of England, to the widow of a landed man deceased, whereby shee may challenge to continue in his capitall messuage, or cheise mansion house, by the space of 40. daies after his decease. Of this see Braston lib. 2.cap. 40. And if the heire, or any other attempt to eject her, shee may have the writ De Quarentina ha-

benda. Fitzh. nat. br. fol. 161. sec anno 9, H. 3. cap. 7. & anno 20. cap. pri. and Britton. cap. 103. M. Skene de verborum significatione. verbo Quarentina viduarum, deriueth this word from the French Quaresme. Who also have this cultome called lo quaresme des vesues granted to widows after the decease of their husbands: as the proueth out of Papon inhis Arrests libro 15. titulo des dess. cap. 7. & lib. 10. tit. Substitutiones cap. 30. Of this read Fleta also lib. 5. cap. 23.

Quarentena habenda, is a writ, that lyeth for a widow to inioy her Quarentine. Register originall.

fol. 175.

Quare non admisit, is a writ, that lyeth against the Bishop refusing to admit his Clerk, that hath recoursed in a plee of Admonssen. The furder vse whereof see in Fitzh. nat. br. fol. 47. & Register originals: fol. 32. See the new booke of Entries. verbo quare non admisse.

Quare obstruxit, is a writ, that lyeth for him who having a scruitude to passe through his neighbours ground, cannot inioy his right, for that the owner hath so strengthened it. Fleta: h. 4. cap. 26. §. Item simu. w.

Quarter Sessions, is a court held by the Instices of peace in enery Countie, once enery quarter. The inrisolation where-

of how farre it extendeth, is to be learned out of M. Lamherds Firenarcha. Sir Thomas Smith de Republ. Anglor, lib. 2.ca. 19. But to these you must adde the late statutes of the Realme, for their power daily increaseth. Originally it secmeth to haue bene crected onely for maters touching the peace. But in these daies it extendeth much farder. That thefeSefsions shold be held quarterly, was first of all ordeined (so farre as I can learne) by the statute anno 25. Ed. 3. stat. pri.cap. 8. of these read Lamberds Eirenarcha the fourth booke throughout, where he setteth them out, both learnedly, and at large.

Quasse (quassare) commeth of the French (quasser i. quassare, conquassare) it figuifieth in our common law to ouerthrowe, Bracton lib. 5. tracta. 2. cap. 2.

nu. 4.

Quekbord, anno 17. Ed. 4. ca.2. Que est mesme, signifieth verbaim. Which is the selfe same thing. It is vsed in our common law as a word of art in an action of trespas, or of like nature, for a direct inst fication of the very act complained of bythe plaintsse as a wrong for example, in an action of the case, the plaintsse saith that the Lord threatned his Tenents at will in such fort, as he draue them to give vp their te-

nures. The Lord for his defence pleadeth, that he said vnto them, that if they would not depart, he would siew them as the law would. This being the same thretning that he vied, or, to speake artificially que est le mesme the defence is good. Of this see Kitchin in the chapter. Que est le mesme. fel. 236. where you may have many like examples.

Queestate, word for word, fignifieth, Quem statum: It fignifieth in our common law, a plee whereby a man intitling another to lands,&c. faith that the fame eftate that he had, himselfe hath from him: for example, in a Quare impedit the Plaintife alleadgeth that fuch foure persons were seised of lands, whereunto the Advowsen in question was appendant in fee, and did present to the Church, and afterward the Church was voide, Que estat del, &c. that is which estate of the foure persons, he faith alfo, that he hath nowe during the vacation, by vertue whereof he presently, &c. Brooke titulo Que estate. fol. 175.65 176. But it is harder to knowe when this Que estate is to be pleaded, then to vnderstand what it is, as by him may appeare. See the new booke of Entries. verbo. Oue estate.

Queene (Regina) is either sheethat houldeth the Crowne of this.

Realme

Realme by right of blood, or els thee that is maried to the King. In the former fignification shee is in all construction the same that the King is, and hath the same power in all respects. In the other signification shee is inferiour, and a person exempt from the King. For fnee may fiew and be fiewed in her owne name. Yet that shee hath, is the Kings, and looke what shee looseth, fo much departeth from the King. Stawnf: prerog: cap. 2. fol. 10. in fine. See Kitchin fol. 1.b. See Cooke lib.4. Copy-hould cases. fo. 22. b. Augusta was the like among Romaines, how be it not emsdem iuris in all things.

Queenes silner. See Kings silner.
Quem reditum reddat, is a writ
Iudiciall, that lyeth for him to
whom a rent seek, or rent charge
is graunted by fine leuied in the
Kings Court, against the Tenent
of the land, that resuseth to atturne vnto him, thereby to cause
him to atturne. See old: nat. br:
fol. 156. and West. parte 2. Simbol: titulo Fines. seet: 125. See the
new booke of Entries. Verbo
Quem reditum reddit.

Querela frisca fortia, is a writ. See Fresh force.

Querela coram Rege & consilio discutienda, & terminanda, is a writ, whereby one is called to instifie a complaint of a trespasse made to the king and himselfe before the King & his counsell. Register originall, fol. 124.b.

Questus est nobis, esc. is the forme of a writ of Nusance, which by the statute anno 13.Ed. pri. cap, 24. lieth against him, to whome the house or other thing that breedeth the Nusance, is alienated, wheras before that statute, this actio lay onely against him, that first leuied the thing, to the hurt of his neighbour. See the Statute.

Quia improvide, seemeth to be a supersedeas graunted in the behalfe of a clerke of the Chawncerie siewed against the priviledge of that court, in the common plees, & persiewed to the exiged. See Dyer f. 22.118.

Quid iuris clamat, is a writ Iudiciall issuing out of the Record of the Fine, which remaineth with the Cnstos breuium of the common place, before it be ingrossed (for afterward it cannot be had) and it lieth for the Grauntee of a Reversion, or Remainder, when the particular tenent will not atturne. West. parte. 2. symbol. titulo. Fines. seet. 118. whome see farder. See the Register Iudiciall, fol. 36.57. And the newe booke of Entries. verbis Quidiuris clamat.

Quinquagesima Sunday, is alway the next Sabbath before Shrouetide, so called, because it is the flueteth day before

Easter.

Easter. The reasons of this appellation who fo defireth to know, hee may finde divers fuch as they bee, in Durandi Rationali dininorum, capit. De Quinquagesima. Sexagesima Sun. day is the next Sabbath before Quinquagesima, so called in the opinion of the said authour, because the number of sixtie confifteth of fixe times tenne: fixe having reference to the fixe workes of mercie, and tenne to the tenne commandements. Septuagesima is the next before Sexagesima, and isinstituted and so called, as Durand likewise faith, for three things: and (to vie his owne words.) Primo, propter redemptionem Sabbathi, vel secundum alios, quinta feria, in qua sancti Patres statuerunt ieinnari. Secundo, propter reprasentationem, quoniam reprasentat septuaginta annos captinitatis Babilonica. Tertio, propter significationem, quoniam per hoc tempus significatur deniatio, exilium, & tribulatio totius humani generis ab Adam v(g, ad finem mundi: quod quidem exilium sub revolutione septem dierum peragitur, & Sub septem millibus annorum includitur. But of these three dayes, you may reade him at large, that have a mind to learne of him. I onely take occasion to note, what time of the yeare they be, because I find them spoken of in our an-

cient lawe writers, as Britton ca. 52. and such like.

Quite claime (quiete clamantia, vel quieta clamantia) is a release or acquiring of a man for any action, that he hath, or might have against him. Bratton lib. 5. trait. 5. cap. 9. num. 9. & lib. 4. tractat. 6. cap. 13. num. prim.

Quutance (quietantia,) sce Ac-

quitance.

Quid proquo, is an artificiall speech in the common lawe, signifying so much as the Greeke our anappa, among the Civilians, which is a mutuall pretestation or performance of both parties to a contract: as a horse and tenne pound betweene the buyer and the seller. Kitchin, sol. 184.

Quinsieme (Decima quinta) is a French word, fignifying a fifteenth. It is vsed in our common lawe, for a taxe laid vpon the subjects, by the Prince. an. 7. H. 7. cap. s. so tearmed, because it is rated after the fifteenth part of mens landes or goods. See Fifteenth and Taxe. The Fifteenth (as Crompton faith in his Inrisdict. fol. 21.) 1s leuied more commonly in these dayes by the yards of land: and yet in some places by goods also: and note also, that he there saith, that it is well knowne by the Exchequer rolle, what every Hhh I towne for a Fifteenth. Sometime this this word Quinsieme is vsed for the fifteenth day after any feast, as Quinsieme of S. John Baptist. anno 13. Ed. prim.cap. 3. & anno decimo octano. eiusd. capit.

Quòd ei deforciat, is a writ that lyeth for the tenent in tayle, tenent in dower, or tenent for terme of life, having lost by default, against him that recouered, or against his heire. Exposition of termes. See Broke hoc tit. See the Regist. original. fol. 171. and the new booke of Entries. verbo Quodei defortiat.

Oned permittat, is a writ, that lyeth for him that is disseised of his commune of pasture, against the heire of the disseisour being deade. Termes of lawe. Briton cap. 8. saith that this writ lyeth for him, whose auncestour died seised of commune of pasture, or other like thing annexed to his inheritance, against the Deforceour. See Broke hoc titulo. See the Register origin. fol. 155. and the new booke of Entries. verbo, Quod permit-

Quod Clerici non eligantur in officio Ballivi, &c. is a writ, that lyeth for a Clerke, which by reason of some land he hath, is made, or in doubt to be made either Baylisse, Bedell, or Recue,

tat.

or some such like officer. See Clerico infra sacros, &c. See the Register orig. fol. 187. Fizz. nat. br. fol. 175.

Quod Clerici beneficiats de Cancellaria, & c. is a writ to exempt a Clerk of the Chauncerie from contribution toward the Prochers of the Clergie in Parlament. Register originall: fol. 261.4.

Quod persona, nec Prabendarii, ce. is a writ, that lieth for spiritual persons, that are distrained in their spiritual possessions for the payment of the sisteenth with the rest of the parish. Fitz. nat. br. fol. 176.

Quod non permittat. See Consu-

etudinibus, & serviciis.

Que inre, is a writ, that lyeth for him that hath land,
wherein another chalengeth
commun of pasture time out
of mind. And it is to compell him to shewe by what
title he challengeth this commune of pasture. Fizzh, nat.
br. fol. 128. Of this see Briton more at large, cap. 59. see
the Register origin. fol. 156. and
the newe booke of Entries.
verbo Quo iure.

Quo'minus, is a writ, that lyeth for him, which hath a graunt of housebote, and heybote, in another mans woods, against the graunter making such waste, as the grauntee

cannot

cannot enion his graunt. old nat. br. fol. 148. Termes of lawe: fee Brooke, hoc titulo. See Kinchin fol. 178. b. This writ also lyeth for the Kings fermer in the Exchequer, against him to whom he selleth any thing by way of bargaine touching his ferme. Perkins Graunts. 5. For he supposeth, that by the breach of the vendee he is disabled to pay the king his rent.

Quowarranto, is a writ that lyeth against him, which vsurpeth
any Frawnchis or libertie against
the king, as to have wayse,
stray, faire, market, court Baron,
or such like, without good title.
old. nat. br. fol. 149. or else against him that intrudeth himselse as heire into land. Braston,
lib. 4. trastat. 1. cap. 2. num. 3.
See Broke hoc titulo. You may
reade of this also. anno 18. Ed.
prim. Stat. 2. & 3. & anno 30
eiusdem. And the new booke of
Entries. Quo warranto.

R

Racke vintage, anno 32.H.8.
Cap. 14. is a second vintage or voyage for wines by our Merchants into Fraunce, &c. For rackt wines, that is, wines clensed and so purged, that it may be and is drawne from the leese.
From this voyage our Merchants commonly returne a-

bout the end of December, or beginning of Ianuarie.

Radknights. See Rodeknights.

Ran, is a Saxon word, fignifying so open a spoiling of a man, that it cannot be denied. Lamb. Archan. fol. 125. defineth it thus: Ran dicitur aperta rapina, quane-

garinon potest.

Ransome, (redemptio) commeth of the French (ran con) or (rencon) i. (redemptio.) It signifieth properly with vs, the fumme paid for the redeeming of a Captiue:and sometime a great summ of money to be paid for the pardoning of some heinous crime. anno pri. H. 4. cap. 7. Note that when one is to make fine, and Ransome, the Ransome shalbe treble to the Fine. Cromptons Infice of peace. fol. 142. a. and Lamb. Eirenarch: lib. 4. ca. 16. pa. 556. Horne in his mirrour of Iustices, maketh this difference betweene amerciament, and ransome, because ransome is the redemption of a corporall punishment, due by law to any offence, lib. 3. cap. de amerciament taxable.

Rape (rapus velrapa) is a part of a county, signifiing as much as a Hundred. As Southsex is divided into sixe parts, which by a peculiar name are called rapes: viz: the Rape of Chichester, of Arundell, of Brember, of Lewis, of Penersey, of Hastings. Camden: Hhh 2 Britan.

Britan.pag. 225. whom also see pag. 229. These parts are in other places called Tithings, Lathes, or Wapentakes. Smith de Repub. Anglo. lib. 2. ca. 16.

Rape (raptus) is a felony committed by a man in the violent deflowing of a woman, be shee ould, or young: Britton: cap. 1. whereof West parte. 2. Simbol. titulo Inditements, lecto: 54. hath these words: Copulation violent, is termed, a rape, or rauishment of the bodie of a woman against her will: which is carnall knowledge had of a woman, who neuer consented thereunto before the fact, nor after. (And this in Scotlandought to be complained of the same day, or night that the crime is committed. Skene de verborum significa. verbo Raptus. his reason. quia lapsudiei hac crimen prascribitur) This offence is with vs Felony in the principall, and his ayders. anno 11. H. 4. cap. 13. annopri. Ed. 4. cap. pri. Westm. 2. cap. 13. (But Fleta faith that the complaint must be made within fourty dates, or els the woman may not be heard. lib. 3. cap. 5. S. Praterea. And carnall knowledge of a woman vnder teane yeares ould is felony anno.8. Elizab. cap 6. Thus far M. West: of the diversity of Rapes, see Cromptons Instice of perce. fol. 47. b. & 44. See Ranifisment. The civile lawe yfeth (naptus) in the fame fignification. And (rapere virginem vel mulierem, est ei vim inferre & violere. Co. li. 9.de raptu virgines.

Raptu heredis, is a writ lying for the taking away of an heire houlding in Soccage, and of this there be 2. forts, onewhen the heire is maried, the other when he is not; of both these see the Register originals. fol. 163.b.

Rastall, was a Lawyer of renerend accoumpt, that lived in Queene Maries daies, and was a Institute of the common plees. He gathered the statutes of the land into an Abridgement, which carieth his name at this day. He is also the author of the new booke of Entries.

Ratification (ratificatio) is vsed for the confirmation of a Clerk, in a prebend, &c. formerly giuen him by the Bishop, &c. where the right of patronage is doubted to be in the King. Of this see the Register originals; fol. 304.

Rationabili parte bonorum, is a writ that lyeth for the wife against the Executours of her husband, denying her the third part of her husbands goods after debts and funerall charges defrayed. Fitzh. nat br. fol. 222, Who there citeth the 18. chapof magna charta, and Glanuile, to proue, that according to the common law of England, the

goods

goods of the deceased, his debts first paid, should be divided into three parts, whereof his wife to have one, his children the second, and the Executours the third. Fitzherbert saith also, that this writ lyeth as well for the children, as for the wife. And the same appeareth by the Reguster original fol: 142.b. I have heard some learned men say, that it hath no vse, but where the custome of the country serveth for it. See the new booke of Entries, verbo: Rationabili parte: et Rationa-

bili parte bonorum.

Rationabilibus dinisis, is a writ. which lyeth in case, where two Lords in divers townes have their feigneuries ioyning together, for him, that findeth his waste, by litle and litle, to haue bene encroched vpon within memory of man, against the other that hath encroched, thereby to rectifie the bounds of their seigneuries. In which respect Fitzberbere calleth it in his owne nature, a writ of right. The old natura breuium faith alfo, that this is a lufticies, and may be removed by a pone out of the county to the common Bank: Seefarder the forme and vie of this writ in Fitzh. nat. br. fol. 128. and in the Register, fol. 157. b. and the new booke of Entries. verbo. Rationabilibus diuisis. The civilians call this Iudicium finium regundorum.

Rauishment, raptus commeth of the French (ravissement .i. direptio, ereptio, raptio, raptus, raptura) and fignifieth in our law, an volawfull taking away either of a woman, or of an heire in ward. Sometime it is ysed also in one fignification with rape, viz. the violent deflowring of a woman, See Rape. And thereupon is the writ called Ranishment de gard, otherwise called de harede abducto. lying for the Lord, whose tenent by reason of his tenure in Knights seruice being his ward, is taken and conucied from him. See Fitzh. natu br. in the writ De recto de custodia. fol. 140. F. Sec also the old nat br. fol. 92. 93. 6 94. See the new booke of Entries. verbo. Rape, & Rauishment de gard.

Rame, anno 4. Ed. 4. cap. 1.

Rannge, commeth of the French (Ranger i. astituere, ordinare) or else the Substantiue (Rang. i. ordo, (eries) It is vsed in our common lawe, both as a verbe (as to Raunge) and also as a substantiue (as to make Rawnge) charta de Foresta, cap. 6. The word is appropriated to the Forest, signifing the office of the Rawnger. The Rawnger is a sworne officer of the Forest (of which fort there seeme to be twelue) charta de Foresta, vap. 7. whose authoritie is partly declared in his oath, fet downe

Hhh 3 by

by M. Manwood parte pri. of his Forest lawes, pag. 50. in these words: You shall truly execute the office of a Rawnger in the Purlieuse of B. vpon the borders of the kings Forest of w. you shall rechase, and with your hound drive backe again the wild beafts of the Forest, as often as they shall raunge out of the same Forest into your Purlieuse. You shall truly present all vnlawfull hunting, and hunters of wild beafts of venerie, as well within the purlieuse, as within the Forest. And these and all other offences you shall present at the Kings next court of Attachements, or Swainmote, which shall first happen, so helpe you God. But the same author setteth downe his office more particularly in his second part c.20.n. 15.16.6 17. The fumm wherof is this. A Raunger is an officer of the Forest, or to the Forest, but not within the forest, having no charge of vert, but only of venison that commeth out of the forest into his charge, or part of the pourallee, to fafe conduct them back againe. And therfore in those forests that have no pouralleeses, there be no Rawngers, but Foristers serue the turne. This Raunger is made and appointed by the King his leters patents vnder the great feale, and for

his better incouragement in his dutie, he hath a yearely fee of 20. pound or 30. pound paid out of the Exchequer, and certaine fee Deere both redde and falow . His office confifterh cheifely in these three points ad perambulandum quotidie per terras de afforestatas, ad videndum. audiendum & inquirendum tam de malefactis, quam de malefactoribus in Ballina sua: ad refugandum feras Foresta tam veneris quam chases de terris deafforestatis, in terras afforestatas: and, ad presentandu omnes transgressiones Foresta n terris de afforestatis factas ad troiximas curias ilius Foreste tentas.

Rawnfom. See Ranfom.

Ray, seemeth to be a word attributed to cloth neuer coloured or died. v. anno 11. H.4. cap.6.

Realtie. See Royaltie.

Reasonable ayde (Rationabile auxilium) is a duty that the Lord of the fee claimeth holding by Knights service or in soccase to Marye his daughter, or to make his sonne Knight. Westm. 1.cap. 39. See Ayde. See Brooke titulo Reasonable aide.

Reattachement (Reattachiamentum) is a second attachement of him, that was formerly attached, and dismissed the court without day, as by the not coming of the Justices, or some such like eausualtic. Brooke tit. Reattachment; where he maketh a

Reat-

Reattachment generall and a Reattachment speciall. Reattachment general seemeth to be, where a man is reattached for his appearance upon all writs of Assis lying against him. Brooke eodem nu. 14. Then speciall must be for one, or more certaine, Register Iudiciall, fol. 35. See the newe booke of Entrie verbo Reattachment.

Rebellion (Rebellio) is a French word fignifiing the taking vp of armes against the King or present estate. This French commeth from the Latine (Rebellio) which fignifieth a second resistance of such as being formerly ouercome in battaile by the Romanes, yeelded themselues to their subjection . The French men and we vie it generally for the traiterous taking vp of armes against the estate, be it by naturall subjects, or by others formerly subdued . Reade more of this. leb. 3. fendorum cap. 61. and Hotoman vpon the same chapter. See the writ of Rebellion . Rebell is fometime attributed to him that wilfully breaketh a lawe. anno 25. Ed. z. cap. 6. & anno z I. eiufdem, stat. 3.c. 2. sometime to a villein disobeying his Lord, a.1. R. 2. c. 6.

Rebellions Affembly, is a gathering together of 12. persons or more, intending or going about, practising, or putting in vre

vnlawfully of their owne authoritie to chaunge any lawes, or statutes of this Realme, or to destroy the inclosure of any park, or ground inclosed, or bankes of any fisheponds, pale, or conduict, to the intent the same shall remaine voide, or to the intent ynlawfully to have common, or way in any of the faid grounds, or to destroy the Deere in any Park, or any warre of conies, or douchouses, or fish in any pondes, or any house, barnes, mils, or bayes, or to burne stacks of corne, or to abate rents, or prices of victuals, an. pri. Mar.c. 12.6 an. 1. Eliza. cap. 17. See West. parte 2. symbol. titulo Inditements. Sectio. 65. And Cromptons Iustice of peace. f.41.b.

Rebutter, commeth of the French (Bouter.i.pellere, impellere, propellere, intrudere) and fignifieth in our common lawe the fame thing. For example, a man giueth land to him and the iffue of his body, to another in fee with warranty. And the Donnee leaseth out this land to a thirdfor yeares. The heire of the Donour impleadeth the tenent, alleadging that the land was intailed to him. The Donce commeth in, and by vertue of the warrantie made by the Donour, repelleth the heire, because though the land were intailed to him: yet he is heire to the warranty like-

wife;

wise; and this is called a Rebutter. See Brooke. titulo Barre: nu. 13. And againe if I graunt to my tenent to hould fine impetitione vasti, and afterward I implede him for waste made, he may debarre me of this action, by shewing my graunt, and this is likewise a Rebutter. Idem, eodem, nu. 25. See the newe booke of Entries, verbo Rebutter.

Renant, anno 32. H. 8.ca.2.
Recaption (Recaptio) signifieth a second distresse of one formerly distressed for the selfe same cause, and also during the plee grounded vpon the former distresse. It likewise signifieth a writ lying for the party thus destressed, the forme, and farder vie whereof, you may see in Fuzlo.nat.br.fol. 71. and the Register orig. fol.86.and the Register Iudicials, fol.69.and the new booke of Entries.verbo. Recaption.

Receyver (Receptor, or Receptator) generally and indefinitely vied, is as with the Civilians, so also with vs, vied commonly in the euill part for such as receive stollen goods from theeues, and conceale them. l. 1. a. de receptatoribus, but annexed to other words, as the receiver of rents, &c. it signifieth many times an officer of great accoumpte, belonging to the king or other great personage. Cromptons Iurisdist. fol. 18. There is also an officer called the Resceiver of Fynes, who receiveth the mony of all such, as compound with the King in the office of the finances for the buying of any lands, or tenements houlden in Capite. West. parte 2. symbol. titulo Fines. sett. 106. Receiver of all offices accountable. anno. 1. Ed. 4 ca. 1.

Receiver generall of the Duchy of Lancaster, is an officer belonging to the Duchy court, that gathereth in all the reuenewes and fines of the lands of the said Duchy, and of all forfeitures and assessments, or what esses thence to be received.

Receiver generall of the court of Wards and lineries, is an officer belonging to that court, that is to receive all rents, revenewes and fines of the lands belonging to his maiesties wards, as also the fines for licences to the Kings widowes to mary, of onster le main sued out, and for idiots and lunatikes land, and finally all other profits whatsoever in mony arising to his maiestie out of or by reason of the court of wards and lyveries.

Receiver generall of the Muster

rolles.anno.35.El.ca.4.

Reseiver generall of the Duchie of Lancaster of the wards, and liveries, anno 39. Elizab. cap. 7.

Receyt. See Resceit.

Rectuse,

Recluse (Reclusus) is he, that by reason of his order in religion, may not stirre out of his house or cloyster. Litteton fol.

Recognisance (Recognitio) commeth of the French (Recognei-(ance. i. agnitio, recognitio) and in our common lawe is thus defined. A Recognisance is a bond of record, testifting the recognizour to owe vnto the recognizee a certaine summe of money, and is knowledged in some court of record, or before some Judge or other officer of such court, hauing authoritie to take the same: as the Masters of the Chancerie, the Iudges of either Bench, Barons of the Exchequer, Iustices of peace, &c. And those that be meere recognisances are not sealed, but inrolled. And execution by force thereof is of all the recognisours goods, and chatels, except his draught beasts, and implements of husbandrie, and of the moitie of his lands, West. parte trim. symb. lib. 2. titulo Recognisances. sect. 149. And of these you may see there great dwersitie of pre-

Note farder, that a Recognizance, though in the speciall signification, it do but acknowledge a certaine debt, and is executed ypon all the goods, and halfe the lands of the recognifour yet by extention it is drawne also to the Bonds, commonly called Statute Merchant, and Statute of the Staple: as appeareth by the Register original. fol. 146, 151.6 252. and by West. whis supra, and others. See Statute Merchant, and Statute Staple.

Recognisance hath yet another fignification, as appeareth by these wordes in the statute, West. I.c. 36. anno 3. Ed. I. It is prouided also and agreed, that if any man be attainted of diffeisin done in the time of our King that now is, with roberie of any maner of goods, or moueables, by recognisance of Assise of nouel disseism, the iudgement shall, &c. In which place it is vsed for the verdict of the twelue men empaneled vpon an Affife, which twelue are also called recognitours of the Assise, Litleton fol. 72. So also Bracton calleth them lib. 5. tractat. 2. cap. 9. num. 2. in these words: In estonio verò reddendo exigentur omnesilli, quos causa tetigerit: sicut particeps, Warantus, & alii ve supra. Recognitores in Assisis, Inratores in Inratis, Inquisitores in Inquisitionibus, &c. And againe, lib. 3 .tract. prim. cap. 11. num. 16. See the Statute anno 20. Ed. prim fat. 4. Seethe newe book of Eneries, ver. Recognisance.

Iii s Recog-

Recognitione adnultanda per vim & duritiem falta, is a writ to the Iustices of the common Bench, for the sending of a record, touching a recognisance, which the recognisour suggessent to be acknowledged by force and hard dealing, that if it so appeare, it may be difanulted. Register original. fol. 182.a.b.

Recognitors (recognitores) is a word vsed for the Iurie empaneled vpon an affise. The reason why they be so called, may be, because they acknowledge a disseisin by their verdict. See Bracton lib. 5. tract. 2. cap. 9. nm. 2. & lib. 3. tract. prim. cap. 11.

num. 16.

Record, (recordum) commeth of the Latine (recordari.) The word is both French and English, and in both tongs fignifieth an authenticall or vncontroulable testimonie in writing. Britton cap. 27. and Lamb. Erenarch. lib. 1. cap. 12. In the Grand Custumarie of Normandie there are severall Chapters of divers records, expressing whose presence in each of the Courts. is sufficient to make that which is enacted to be a record. viz the 102. chapter, where you have wordes to this effect. The record of the Kings Court, is a record of things done before the King. All things done before the King, fo he have one other witnesse. This record may he and other make: if he himselfe will not make it, it may be made by three others. And his person may not bee impeached (or excepted against) enther in this or any other thing. The next chapter. viz. the 103. sheweth how many persons suffise to make a record in the Exchequer. The next how many in an affise, &c.

I find not that wee in our Courts (especially the Kings Courts) stand much vpon the number of recorders or witnesfes for the strength of the testimonie which the record worketh: but that we take it fufficient which is registred in each Court: Glanvile lib. 8. cap. 8. Bracton lib. 3. tract. 2. cap. 37. num. 4. Britton in the Proeme of his booke, faith, that the Iuftices of the Kings Bench haue a record, the Coroner, Vicount, Justices of the Exchequer, Justices of Goale deliuerie, the Steward of England, Justices of Ireland, Iuflices of Chefter, Iuflices affigned by the Kings leters patents, in those causes they have commission to take knowledge of. All which (as I take it) must be understood with that caucat of Brooke, titulo (Record) num. 20 & 22. that an act committed to writing in any of the Kings

Courts,

Courts, during the terme wherein it is written, is alterable, and no record: but that terme once ended, and the faid act duly enrolled, it is a record, and of that credit, that admitteth no alteration, or proofe to the contrarie. Yet see Sir Edward Cookes Reports lib. 4. Rawlins cafe. fol. 52.b. ann. 12. Ed. 2. cap. 4. It is faid, that two luftices of either Bench have power to record Non fuites. & Defaults in the countrey. It appeareth by Bracton, lib. s. tract. 2. c. I. & II. that quatuor milites habent recordum, being sent to view a partie effoined de malo letti, and lib. 5. tract. 1. cap. 4.nu. 2. that Serviens Hundreds habet recordum in sestimonio proborum hominum. And in the Statute of Carleil, made anno 15. Ed. 2. it is faid, that one Justice of either Bench with an Abbot, or a Prior, or a Knight, or a man of good fame and credence, hath a record in the view of one that is faid by reason of sicknesse, to be vnable to appeare personally for the pailing of a fine. And anno 13. H. 4. cap. 7. 6 anno 2. H.s. cap. 2. that two Iustices of peace, with the Shyreeue, or Vnder-Thyreeue haue power to record, what they find done by any in aryot, or route,&c.

That which is before mentioned out of Britton touching the Shyrceue, feemeth to be limited

by Fitzh: nat. br. fol: 81.D. Who alloweth hima Record in fuch maters onely, as he is commaunded to execute by the Kings writ, in respect of his office. And thence it commeth that Kitchin fol. 177. faith, that the Escheatour, and Shyreeue be ner lustices of record, but officers of record. In which words he fignifieth, that their testimony is authenticall onely in some certaine things that are expresly injoyned them by vertue of their Commission, as ministers to the King in his higher Courts, whereas Inflices of record have in generality a record for all things within their cognisance done before them as ludges, though not exprefly or particularly commaunded. Fitzberbert in his Nat: br.fo. 82. in principio, something explaneth this point, writing to this effect : Euery act that the Shyreeue doth by vertue of his commission, ought to be taken as mater of record, no lesse then the Iustices of peace. His reasons be two: the former, hecause his patent is of record: the other, because he is a conservatour of the peace. And then he addeth, that the plees held before him in his County be not of record. Yet is the county called a Court of record. Westm. 2. ca. 3. anno 13. Ed. 1. But it seemeth by Britton. cap. 27. that it is onely in these causes. Iii 2

causes, whereof the Shyreeue houldeth plee by especiall writ; and not those that he houldeth of course or custome. And in that case also it may be gathered out of the same authour, that he hath a record, but with the testimony of those annexed, that be suiters to the Court. Which feemeth to agree with Bractons words about specified. Serviens Hundredi habet recordum in testimonio proborumbominum. And to this purpose read Glanuile. lib. 8. cap. 8. 9.6 10. One Iustice vpon view of forcible detinew of land, may record the same by statute. anno 15. R. 2. cap. 2. the Maior, and Constables of the Staple, haue power to record recognisances of debt taken before them, anno 10. H. 6. ca. I.

Brooke, titulo (Record) feemeth to fay, that no court ecclesiasticall is of record : how truly, it is to be inquired. For Bishops certifiing bastardy, bigamy, excommunication, the vacancy or plenarry of a Church, a mariage, a diuorce, a spiritual! intrusion, or whether a man be professed in any religion, with other such like, are credited without farder enquiry or controlment. See Brooke, titulo Bastardy. See Fleta. lib: 6. ca. 39. 40. 41. 42. Lamb. eirenarcha: lib: pri. sap. 13. Glanuile. li. 7. ca. 14. G 15. the Register originall: fol. s. b. Bracton. lib. 5.

tracta: 5. ca. 20. nu. 5. Britton ca. 92. 94. 106. 107. 6 109. Det. and Stud. li. 2. ca. 5. but especially Cosius apologie, parte pri. ca. 2. And a restament shewed vnder the seale of the Ordinary is not trauerfable. 36. H. 6. 31. Perkins Testament. 491. Fulb. paral. fol. 61.6. But it may be that this opinion groweth from a difference betweene that law, whereby the court Christian is most ordered. and the common law of this land. For by the civile or canon law no inftrument, or recordis held so firme, but that it may be checked by witnesses able to depose it to be vntrue. Co. plus valere quod agitur quam quod simulate concipitar. ca. cum Iohannes. 10. extra: de fide instrumentorum. Whereas in our common law against a record of the Kings Court, after the terme wherein it is made, no witnes can preuaile. Britton. ca. 109. Coke lib. 4. Hindes case. fol. 71. lib. assisarum fol. 227. nota. 21. This reconciliation may be instified by Brooke himselfe. titulo, Testaments. num. 4. 8. 6 14. and by Glanuile, lib. 8. cap. 8.

The King may make a court of record by his graunt. Glanuil. li. 8. ca. 8. Britton cap. 121. as for example, Queene Elizabeth of worthy memory by her Charter dated. 26. Aprilis. anno 3. regnifui made the Consistory Court of

the

the Vniuerfity of Cambridge a

There are reckoned among our common lawyers three forts of records: viz: A record indiciall, as attainder, &c. A record ministeriall vpon oath, as an office found. A record made by conveyance by consent, as a fine, deede enrolled, or such like. Cohe. It. 4. Andrew Ognels case. fo. 54. 6.

Recordare facios, or recordari facias, is a writ directed to the Shyreeue, to remoue a cause depending in an inferiour court, to the Kings bench, or common plees, as out of a court of auncient Demesn, Hundred, or Countie, Fitz. nat. br. fol. 71. B. out of the countie Court. idem, fo. 46. B. or other courts of record. idem fol. 71. C. & 119. K. Howbeit, if you will learne more exactly, where, and in what cases this writ lyeth, reade Brooke in his Abridom. titulo, Recordare & pone. It seemeth to be called a recordare, because the forme is fuch, that it commaundeth the Shyreeue to whom it is directed, to make a record of the proceeding by himfelfe, and others, and then to fend vp the cause. See the Register, verbo, Recordare, in the Table of the originall Writs. See Certiorari. Sce Accedas ad Curiam.

Recorder (recordator) commeth

of the French (recordenr. i. talis persona que in Ducis Curia à indicio faciendo non debet amoueri.) Grand Costumarie of Norm. cap. 107.6 121. Whereby it appeareth, that those which were necessarie Indges in the Duke of Normandies Courts, were called Recorders: and who they were, is shewed in theninth chapter of the faid booke. And that they, or the greater part of them, had power to make a record, it is enident in the chapter 107. Here in England a Recorder is he, whome the Major or other Magistrate of any citie, or towne corporate, having lurifdiction, or a Court of record within their precincts by the Kings graunt, doth affociate vnto him for his beter direction in maters of Justice and proceedings, according vnto lawe. And he is for the most part a man well feene in the common lawe.

Recordo & processu mittendis, is a writ to call a Record, together with the whole proceeding in the cause, out of one court into the Kings Court. Which see in the Table of the Register orig. how diversly it is ysed.

Recordo vilagaria mittendo, is a writ Iudiciall, which fee in the Register iudicial. fol. 32.

Recouerse (Recuperatio) cometh of the French Recouvrer, i. Recuperare. It fignifieth in our commo

Iii 3 lawe

lawe, an obteining of any thing by ludgement, or triall of lawe, as eviltie doth among the Ciuilians. Bur vou must vnderstan that there is a true recouerie and a feigned. A true Recouerie is an actuall, or reall recouerie of any thing, or the value thereof by Iudgement: as if-a man fiewed for any land, or other thing moueable or immoueable, and have a verdict, and Iudgement for him. A feigned recouerie is as the Civilians call it) quadam fitio iuris. a certaine forme, or courle set downe by lawe, to be observed for the beteraffuring of lands or tenements vnto vs. And for the beter vnderstanding of this, reade West.parte 2. symbol. titulo Recoveries. feet. pri, who faith, that the end, and effect of a Recouerie, is to discontinue and destroy estates Tayles, Remainders, and Reversions, and to barre the former owners thereof . And in this formality there be required 3. parties, viz. the Demaundant. the Tenent, and the Vowchee. The Demaundant is he that bringeth the writ of Entrie, and may be termed the Recoverer: The Tenent is he, against whom the writ is brought, and may be termed the Recoveree . The Vowchee is he, whom the tcnet vowcheth, or calleth to warrantie for the land in demaund.

West. vbi supra. In whom you may reade more touching this mater.

But for example to explane this point, a man that is defirous to cut of an estate tayle in lands or tenements, to the end, to fell. giue, or bequeath it, as him felf feeth good, vieth his frend to bring a writ vpon him for this land. Heappearing to the writ faith for him felfe, that the land in question came to him or his auncesters from such a man or his auncefter, who in the conuciance thereof, bound him felfe and his heires to make good the title voto him or them to whome it was conucied. And fo he is allowed by the court to call in this third man to fay what he can for the inflifting of his right to this land, before he so conveied it. The third man commeth not: wherevpon the land is recovered by him that brought the writ: and the tenent of the land is left for his remedie to the third man that was called and came not in to defend the tenent. And by this meanes the entayle which was made by the tenent, or his auncester, is cut of by iudgement herevpon guen: for that he is pretended to have no power to entaile that land, wherevnto he had no iust title, as now it appeareth: because it

is evicted, or recovered from him.

This kinde of recovery is by good opinion, but a snare to deceive the people. Doctor & Stud. ca. 32. dial. pri. fol. 56. a. This seigned Recovery is also called a common Recovery: And the reason of that Epitheton is, because it is a beaten and common path to that end, for which it is ordeined, viz. to cut of the estates above specified. See the new booke of Entries verbo. Reco-

stery.

I saide besore, that a true recouery is as well of the value, as of the thing: for the beter understanding whereof, know, that (In valew) fignifieth as much as (Illud quod interest) with the Civilians. For example, if a man buy land of an other with warranty, which land a third person afterward by suite of lawe recouereth against me, I haue my remedie against him that fould it me, to recouer in value, that is to recover fo much inmony as the land is worth, or fo much other land by way of exchaunge . Fitzb. nat.br. fol. 134. K. To recouer a warranty. old. nat. br. fol. 146. is to proue by judgement that a man was his warrant against all men for fuch a thinguold to saising

Retto, is a writ, called in English, a writ of Right, which is of

Ifo high a nature that whereas other writs in reall actions be onely to recouer the possession of the land, or tenements in queftion, which have beene loft by our auncester, or our selues, this aimeth to recover both the feifin. which fome of our Auncesters, or wee had, and also the propertie of the thing, whereof our Auncester died not seised. as of fee: and whereby are pleaded, and tried both the rights togither, viz. as well of possession, as property. Infomuch as if a man once loofe his cause vpon this writ, either by Judgement, by Affife, or barell, he is without all remedie, and shall be excluded (per exceptionem Rei indicata) Bracton lib. s. trast. 1. cap. 1.6 fegg. where you may reade your file of this writ.

It is divided into two Species: Rectumpatens, a writ or right patent, and Rectum clausum,2 writ of right close . This the Civilians call Indicium petitorium. The writ of right patent is fo called, because it is sent open, and is in nature the highest writ of all other, lying alwaies for him that hath fee simple in the lands, or tenements fiewed for, and nor for any other. And when it lieth for him that chaengeth fee fimple, or in what cases, See Fitzb. nat. br. fol. pris Garhome see also. fel. 6. of a

fpeci-

speciall writ of right in London, otherwise called a writ of right according to the Custome of London. This writ is also called Brene magnum de Recto. Register originall. fol. 9, A. B. and Fleta R.S. cap. 32. 8.1.

A writ of right close, is a writ directed to a Lord of anncient Deme fn, and lieth for those, which hould their lands and tenements by charter in fee simple or in fee taile, or for terme of life, or in dower, if they be eiected out of such lands, &c. or diffeifed. In this cafe a man or his heire may fiew out this writ of Right close directed to the L. of the Auncient Deme In, commanding him to doe him right. &c. in his court. This is also called a small writ of right. Breve parvum, Register originall. fel.9. a. b. and Britton, cap. 120. in fine. Of this see Fazb. likewise at large.nat. br.fol. 11. & fegg.

Yet note that the writ of right patent seemeth farder to be extended in yse, then the original inuention served: for a writ of Right of Dower, which heth for the tenent in Dower, which heth for the tenent in Dower, and onely for terme of life, is patent as appeareth by Fush, nationally as a superior of the safe of ditters others that doe here after followe. Of these see also the table of the original Register. verbe Resta. This writ is proper-

ly tried in the Lords court betweene kindsmen, that claime by one title from their Auncester. But how it may be thence removed, and brought either to the Councie, or to the kings court, see Fleta, lib. 6. cap. 3.4.65 5. Glanvile seemeth to make euery writ, whereby a man seweth for any thing due vnto him, a writ of right. lib. 10.ca. 1lib. 11. cap. 1. lib. 12. cap. 1.

Recto de dote, is a writ of Right of Dower, which lieth for a woman, that hath received part of her Dower, and purposeth to demaund the Remanent in the same towne, against the heire, or his Gardian, if he be ward. Of this see more in the old nat. br. fol. 5. and Fitzh. fol. 7. E. and the Register originall, fol. 3. and the newe booke of Entries, verbo Drogt.

Resto de dote unde mbil habet, is a writ of right, which lieth in case, where the husband hauing diuers lands or tenements, hath assured no dower to his wife, and she thereby is driven to siew for her thirds agianst the heire or his Gardian, old.nat. br. folio 6. Register criginall, fol.

m. Recto de rationabili parte, is a writ that lieth alway, beweene priviles of bloud, as brothers in Ganel-kind, or lifters, or other Coparceners, as Nephewes or

Nec-

Necces, and for land in Fee simple. For example, if a man lease his land for tearme of life, and afterward dyeth, leaving iffue, two daughters, and after that the tenent for terme of life likewise dyeth: the one sister entring vpon all the land, and so deforcing the other; the sister so deforced, shall have this writ to recover her part. Fitz. nat.br.fo.

9. Register origin. fol. 2. Recto quando Dominus remisit, is a writ of right, which lyeth in case, where lands or tenements that be in the Seigneurie of any Lord, are in demaund by a writ of right. For if the Lord hold no Court, or otherwise at the prayer of the Demandant, or Tenent. shall send to the Court of the King his writ, to put the cause thither for that time (fauing to him another time the right of his Seigneurie) then this writ iffueth out for the other partie, and hath this name from the words therein comprised, being the true occasion thereof. This writ is close, and must be returned before the Iustices of the common Bancke, old, nat.br. fol. 16. Regist. orig. fol.4.

Resto de Advocatia Ecclesia, is a writ of right, lying where a man hath right of Advouzen, and the Parson of the Church dying, a straunger presenteth his Clerke to the Church, & he not having moued his action of Quare impedit nor darrein presentment within fixe monethes, but suffered the straunger to vsurpe vpon him. And this writ he only may have, that claimeth the Aduowzen, to himselfe and to his heires in see. And as it lyeth for the whole aduowzen: so it lyeth also for the halfe, the third, the fourth part. old. nat. br. fol. 24. Register originall. fel. 29.

Retto de custodia terra & haredis, is a writ that lyeth for him, whose Tenent houlding of him in Chiualry, dyeth in his nonage, against a straunger, that entreth vpon the land, and taketh the body of the heire. The forme, and farder vse whereof see in Fitzh. nat. br. fol. 139. and the re-

gifter originall: fol. 161.

Recto sur disclaimer, is a writ that lyeth, where the Lord in the kings court, so: in the common plees, dothavow upon his tenent, and the Tenent disclaimeth to hould of him, upon the disclaimer he shall have this writ: and if the Lord averre, and prove, that the land is houlden of him, he shall recover the land for ever. old. nat. br. so. 150. which is grounded upon the statute, Westm. 2. ca. 2. anno 13. Ed. pri. which statute beginneth. Qua Domini seudorum, &c.

Rector, is both Latine, and English, fightifting a Governour. In

Kkk 1 the

the common law rester ecclesia parochialis, is he that hath the charge, or cure of a parish Church: qui tantum ius in esclesia parochiali habet, quantum pralatus m ecclesia collegiata, ca. vlt: De locat: & Conduct: in glos: verbo Expelli potnissent. In our common law. I heare that it is lately ouer ruled, that rector ecclesie parochialis is he, that hath a personage, where there is a vicarage, endowed : and he that hath a personage without a vicarage, is called persona. But this distinction feemeth to be new and subtile preter rationem. I am sure Bratton vieth it otherwise, lib: 4. tracta: c. ca. pri. in these words. Et seiendum quod rectoribus ecclesiarum parochialium competit Affila qui instituti sunt per Episcopos, & Ordinarios vt persone. Where it is plaine, that rector and persona be confounded. Marke also these words there following: Item dici possunt rectores Canonici de ecclesiis prabendatis. Item dici possunt restores, vel quali, Abbates, Priores & alii, qui habent ecclesias ad proprios vius.

Rettus in curia, is he that standeth at the barre, and hath no man to object any offence against him. Smith de repub: Angl: 4. 2. c. 3. see a. 6. R. 2. sta. 1. c. 12.

Reddendum, is vsed many times substantiuely for the clause in a lease, &c. Whereby the rent is reserved to the leasour. Coke lib. 2. Lord Cromwels case. fol. 72.b.

Redisseism (redisseisma) is a disseism made by him, that once before was found, and adjudged to have disseised the same man of his lands, or tenements. For the which there lyeth a speciall writ, called a writ of redisseism. old: nat. br. fol. 106. Fitzh. nat. br. fol. 188. See the new booke of Entries. verb. Redisseism.

Redisseisina, is a writ lying for a redisseisin. Reg.orig.fo. 206.207.

Reddicion, is a indiciall confession, and acknowledgement that the land or thing in demand belongeth to the demandant, or at the least, not to himselfe. a. 34. & 35. H. 8. ca. 24. Perkins Dower. 379. 280.

Redubbours, be those that buy cloth, which they know to be stollen, and turne it into some other forme or fashion. Britton. cap. 29. Cromptons Vicount, sol.

193.4.

Reentry, cometh of the French (rentrer). i. rursus intrare, and signifieth in our common law, the resuming, or taking againe of possession, which we had east forgone. For example, if I make a lease, of land, or tenement, I doe thereby forgoe the possession, and if I doe condition with the Leassee, that for non payment of the rent at the day it shalbe lawfull for me to reenter, this

is as much as if I conditioned to take againe the lands &c. into mine owne hands, and to recouer the possession by mine owne sact without the assistance of ludge or proces.

Reere countie. See Rier Cown-

tye.

ent, in old with

Reextent, is a a second extent made vpon lands, or tenements, vpon complaint made, that the former extent was partially performed. Brooke, titulo.

Extent fol. 313.

Regard regardum) is borowed of the French (Regard) or Regardure i. affectus, confectus, refe-Etws.) and though it have a generall fignification of any care or diligence: yet it hath also a speciall acceptance, and therein is vsed onely in maters of the Forest:and there two waies : one for the office of the Regarder, theother for the compasse of ground belonging tothe Regarders office or charge. Cromptons Iurisa fol. 175. 199. Touching the former, thus faith M. Manwed, parte pri. of his Forest lawes. pag. 198. The Eire, generall sessions of the Forest, or Iustices feat, is to be houlden, and kepte euery third yeare: and of necessity before that any such sessions or Iustices seare can be houlden, the Regarders of the Forest must make their Regard. And this making of the Regard must be done by the kings writ. And the Regard is, (as he afterward there saith) to goe through the whole Forest, and every Bayliwicke of the same, to see and enquire of the trespasses of the Forest: which he comprise in these 4. viz. ad videndendum. ad inquirendum, ad imbreviandum, ad certisseandum. Of every of which braunches you may reade there his exposition.

Touching the second fignification, the compas of the Regarders charge is the whole Forest, that is , all that ground, which is parcell of the Forest. For there may be woods within the limits of the Forest, that be no parcell thereof, and those be without the Regard, as the same author plainely declareth, parte pri. pag. 194. and againe parte 2. cap. 7.nu. 4. where he Theweth the difference between these words:(Infra Regardum)or (Rewardum) & Infra Forestam.

Regarder (Regardator) commeth of the French (Regardeur).i. pettator) & fignifieth an officer of the Forest. (romptons Iurisate fol. 153. where it is thus defined. A Regarder is an officer of the Forest, appointed to survew all other officers. He saith there also, that this officer was ordeized in the beginning of

Kkk2 King

King Henry the seconds daies. M. Manwood in his first part of Forest lawes. pag. 188. thus defineth him. A Regarder is an officer of the Kings Forest, that is Sworne to make the Regard of the Forest, as the same hath been vsed to be made in auncient rime. And also to view and inquire of all offences of the Forest, as well of vert as of venison, and of all concealements of any offences or defaults of the Foresters, and of all other officers of the Kings Forest, concerning the execution of their offices. He saith there also, that a Regarder may be made either by the Kings leters patents, or by any one of the Kings Iuftices of the Forest, at his discretion in the generall Eyre, or at fuch time, as the Regard is to be made, by vertue of the Kings writ, directed to the Shyreeue of the Countie for that purpose. The forme of which writ he there setteth downe.

After that pag. 192, he setteth downe his oath in these words. You shall truly serve our sonereigne Lord the King in the office of a Regarder in the Forest of Waltham. You shall make the Regard of the same in such maner, as the same hath beene accustomed to be made. You shall raunge through the whole forest, and through enery

Bailiwicke of the fame, as the Foresters there shall lead you to view the faid forest. And if the foresters will not, or doe not know how to lead you, to make the regard or raunge of the Forest, or that they will conceale from you any thing that is forfeited to the King , you your felues shall not let for any thing: but you shall see the same forfeiture, and cause the same to be inrolled in your rolle. You shall inquire of all wastes, pourpreftures, and Afferts of the Foreft. and also of concealements of any offence, or trespasse in the Forest. & all these things you shall to the vitermost of your power doe, so helpe you God. Then you may reade farder the particulars of his office. eadem, pag. 195. And pag. 207. he faith that their presentments must be vpon their view, and fo recorded, and that the Regarders of themfelues have power to heare and determine the fine, or amerciament for expeditating of dogs. See Regard.

Regio assensu, is a writ whereby the King giucth his Royall affent to the election of a Bishop or Abbot. Register origin.

fol. 294. b.

Registrie) Registrum) commeth of the French (Registre. i. liber, librarium, codex ratiocinarius, ephemeris, commentarius) it signi-

fieth

fieth with vs the office, or books, or rolls, wherin are recorded the proceedings of the Chauncerie, or any spirituall courte. The writer, and keeper whereof is called the Register, in latine, Registarius. Register is also the name of a booke, wherein are expressed all the formes of writs vsed at the common lawe, called the Register of the Chauncerie. anno 13. Ed. prim. cap. 24. Some say it is tearmed Registrum quasi Regestum. Pratans.

Regrator (regratator) commeth of the French (regratter i. desquamare.) Regratter quelque vielle robe & la faire neufue) is to scoure or surbush an old garment and to make it new againe. Alfo (regratteur) signifieth as much as (Mango) in Latine: which kind of men fold children, and to fel them the beter, mentiendi coloris artem optime callebant. Martialis & Plinius. This word in our comon lawe, did aunciently fignifie fuch as bought by the great, and fold by retayle. anno 27. Ed. 3. stat. prim. ca. 3. but now it fignifieth him, that buyeth and felleth any wares, or victuals in the same market, or faire, or within 5. miles thereof. anno 5. Ed. 6. cap. 14. anno 5. Eliz. cap. 12. anno 13. Eliz. cap. 25. See ForeStallers and Engroffers.

Rehabere facias seisinam quando Vice comes liberavit seisinam de maiore parte, quam deberet, is a writ Iudiciall. Regist. Iudicial, fol. 13.51. There is another writ of this name and nature. eodem fol. 54.

Reioynder (rejunctio) signifieth in our common lawe, asmuch as Duplicatio with the Civilians, that is, an exception to a replication. For the first answer of the Defendant to the Plaintiffes bill, is called an exception: the plaintiffes auniwer to that, is called a Replication; and the Defendants to that, Duplication in the ciull lawe, and a Reiovnder with vs; especially in Chauncerie. West. parte 2. symb. titula Chauncerie. sect. 56. where he citeth these words out of Spigelius. Est autem reiunctio seu duplicatio, vel allegatio, que datur reo ad infirmandum replicatione actoris, & confirmandum exceptionem Rei.

Relation (relatio) idem qued fictio iuris, to make a nullitie of a thing from the beginning, (for a certaine intent) which had effence, Cooke lib. 3. Butler & Baker. fol. 28. b. which in playner termes may be thus expounded. Relation is a fiction of the lawe, whereby fomething is (for a special purpose) imagined neuer to have bene, which in Kkk 3 truth

truth was. Reade the reft.

Release (retaxatio) commeth of the French Relasche, i. cessatio, relaxatio, laxamentam) and in our common lawe is thus defined A Release is an Infrument whereby estates, rights, titles, entries, actions, and other things be some time extinguished, some time transferred, sometime abridged, and sometime enlarged. West. parte prim. symbol.lib. 2 fest. 509. And there is a Release in fact, and a release in lawe. Perkins Graunts 71. A release in fact seemeth to be that, which the very words expressely declare. A Release in lawe is that, which doth acquite by way of consequent, or intendment of lawe. An example whereof you have in Perkins vbs supra. Of these, how they be availeable, & how not, see Litleton at large.li. 2. cap. 8. fol. 94. of divers fortes of these Releases see the newe booke of Entries. verbo Release.

Reliefe (relevium) commeth of the French (relever, i.relevare) and fignifieth in our common lawe, a certaine fumme of money, that the tenent holding by knights service, grand sergeantie, or other tenure, for the which homage or regall service is due, or by soccage, for the which no homage is due, and being at full age at the death of

his aunceftour, doth pay vnto his Lord at his entrance. Bracton lib. 2. cap. 36. giueth a reason why it is called a Reliefe. viz. quia hareditas, que sacens fuit per antecessoris decessum, relevatur in manus haredum, co propter factam relevationem, facienda erit ab berede guadam prastatio, que dicitur Relevium. Of this you may read Britton. cap. 69. in a maner to the same effect. Of this also speaketh the Grand Custumary of Normandie, cap. 34. to this effect: It is to be knowne, that the Lord of the fee ought to haue reliefe of the lands, which be held of him by homage, when those die, of whom he had homage. And that this is not onely proper to vs in Eng. or Normandie, appeareth by Hotoman in his Commentaries, de verbis feud. verbo Relevium, who there defineth it thus: Relevium est honorarium, quod novus va fallus patrono introitus caufa largitur, quasi morte vasalli alterius, vel alio quo casu feudum ceciderit: quod iam a novo sublevetur: and farder speaketh of it, that which is worth the reading, and containeth great knowledge of antiquitie. See the like definition in Marantæ singularibus. verbo Relevium. For the quantitie of this reliefe, see the Great charter, cap. 2. in these words: If any of our Earles or Barons, or any other

our tenents, which hold of vs in chiefe by knights seruice, dve. and at the time of his death his heire is of full age, and oweth to vs reliefe, he shall have inheritance by the old Reliefe: that is to fay, the heire, or heires of an Earle for one whole Earldome one hundred pound: the heire or heires of a Baron for one whole Baronie one hundred merkes: the heire or heires of a Knight, for one whole Knights fee, one hundred shillings at the most. And he that hath leffe, shall give leffe, according to the old custome of the fees. Reade also Glanvile lib. 9.cap. 4. fol. 68. who faith, that in his dayes the Reliefe of a Baronie was not certaine. The heire in francke foccage, when he commeth to his full age, after the death of his auncester, shall double the rent that he was wont to pay to the Lord, and that shall be in place of reliefe, old nat. br. fol. 94. Somewhat more hereof you may reade in anno 28. Ed. prim. statut. prm. and Kitchin fol. 145. ca. Reliefe. and Glanvile lib. 7. cap. 9. The Feudists also write of this at large. Among others Vincentius de Franchis descis. 121. faith, that Relevii Colutioest quadam extrinseca prastatio à consuetudine in troducta, que non inest feudo, quodque soluitur pro confirmatione, seu re-

nouatione investitura & possessionis. See Heriot. This Leo the Emperour Novella 12. calleth eio-Séxlexov. By the auncienter civile lawe it is termed (introitus) l.penult. 6. Alumno. a de legatis. Skene de verb. fignif. faith, that Reliefe is a French word from the Latine relevare, which is to releeue or take vp that which is falen. For it is given by the tenent, or vaffall being of perfect age, after the expiring of the wardethip to his Lord, of whome he holds his land by Knights feruice, that is, by ward and reliefe; and by payment thereof he relieues, and (as it were) raifeth vp againe his lands, after they were fallen downe into his superiours hands by reason of wardship, &c.

Remainder (remanentia) fignifieth in our common law, a power or hope to injoy lands, tenements, or rents after the estate of another expired. For example, a man may let land to one for terme of his life, and the Remainder to another for terme of his life. Litleton cap. Atturnment: fol: 113. And this Remainder may be either for a certaine terme, or in fee simple, or fee taile, as might be proued by many places in the law writers. But in steed of the rest, take Brooke, titulo Done & Remainder, fol: 245. Glanuile. bb. 7. ca. pri: in fine hath these words:

Notan-

Notandum quod nec Episcopus, nec Abbas, quin eorum Baronie sunt de eleemozina Domini Regis, et antecessorum eius, non possunt de Dominicis suis aliquam partem dare ad remanentiams line assensu en confirmatione Domini Regis. Where it appeareth that Dare ad remanentiam is to give away for ever. To the same effect doth he vie it cap. 9. einsdem libri in these words, speaking of the Lords of maners during the minority of their wards. Nibil tamen de bæredstate, de iure alienare possunt ad remanentiam. In the like fort doth Bracton vie it. lib. 2. cap. 23. in fine: and allo lib. 4. tracta. 2. cap. 4. nu. 4. See the new booke of Entries. verbo Remainder.

Remembrancers of the Exchequer (Rememoratores) be three officers, or clerks, one called the Kings Remembrancer. anno 35. El. cap. 5. The other the Lord Treasurers Remembrancer, vpon whose charge it seemeth to lye, that they put all Iustices of that court, as the Lord Treasurer and the rest, in remembrance of fuch things, as are to be called on, and delt in for the Princes behoofe. The third is called the Remembrancer of the first fruites. Of thefeyou may read something. anno 5. Rich. 2. stat. pri: cap. 14. 6 15. to the effect aboue specified. These anno 37. Ed. 3. cap. 4. be called clerks of

the Remembrance. It feemeth that the name of this officeris borowed from the Civilians. who hauetheir (Memoriales) qui funt notarii Cancellaria in regno Subjecti officio Quastoris. Lucas de penna. C. lib. 10. tit. 12. nu: 7. The kings Remembrancer entreth in his office all recognicances taken before the Barons for any the Kings debts, for apparences, or for obseruing of orders. He taketh al bonds for anyof the kings debts, or for 'apparance, or for obseruing of orders, and maketh proces vpon them for the breach of them. He writeth proces against the collectors of customes, subsidies and fineteenthes, for their accompts. All informations vpon penall statutes are entred in his office. And all maters vp on English bils in the Exchequer chamber are remaining in his office. He maketh the bils of compositions ypon penall lawes : taketh the stalments of debts: maketh a record of a certificate deliuered vnto him by the clerk of the Starrechamber of the fines there fet, and sendeth them to the pipe. He hath delivered vnto his office all moner of indentures, fines, and other enidences whatfocuer, that concerne the affuring of any lands to the Crowne. He yearely in crastino animarum readeth in open court the statute for the elections

Not an

elections of Shyreeues, and giueth those that chuse them their oath: he readeth in open court the oath of all the officers of the court, when they are admitted.

The treasurers remembrancer maketh proces against all Shyreeues, escheators, receivers, and bayliffs for their accoumpts. He maketh proces of (fieri facias) and extent for any debts due to the King, either in the pipe, or with the auditors. He maketh proces for all such reuenew as is due to the King by reason of his tenures. He maketh a record, whereby it appeareth whether Shyreeues and other accountants pay their profers dew at Easter and Michelmas. He maketh another record, whereby it appeareth, whether Shyreeues and other accountants keepe their daies of prefixion. All extreats of fines, Mues, and amerciaments fet in any courts of Westminster, orat the assistes, or seffions, are certified into his office, and are by him delivered to the clerk of extreats to write proces ypon them. He hath alfo brought into his office all the accoumpts of customers, controllers, and other accoumptants to make thereof an entry of re-

The Remembrancer of the first fruites, taketh all compositi-

ons for first fruites and tenthes: and maketh proces against such as pay not the same.

Remittere, commeth of the Prench (remettre .i. restituere, reponere) and fignifieth in our common law, a restitution of one that hath two titles to lands or tenements, and is seised of them by his later title, vnto his title that is more auncient, in case where the later is defectine, Fitz. nat. br. fol. 149. F. Dyer fol. 68. nu. 22. This in what case it may be graunted to any man, see in Brooke titulo Remitter : and the terms of law. The Doctor and Student of this mater hath these words: if land discend to him that hath right to that land before, heshalbe remitted to his beter title, if he will. capite nono. fol. 19. b. See the new booke of Entries: verbo Remit-

Render, commeth of the French (Rendre.i.reddere, retribu-ere, restituere) and significath in our common lawe, the selfe same thing. For example, this word is vied in leuying of a sine. For a fine is either single, by which nothing is graunted, or rendred backe againe by the Cognizee, to the Cognizour; or double, which conteineth a graunt, or render backe againe of some rent, common,

or other thing, out of the land it selfe to the Cognizor, &c. West. parte. 2. symbol. titulo Fines. fect. 21.6 30. F. Also there be certaine things in a maner that lie in prender, that is, which may be taken by the Lord, or his officer, when they chaunce, without any offer made by the tenent, as the ward of the body of the heire, and of the land, escheats, &c. and certaine that lie in Render, that is, must be delinered or answered by the Tenent, as rents, reliefes, heriots, and other services. Idem, eodem fest. 126. C. Alio some service confisteth in seisace, some in Render. Perkins Refermations. 696.

Rent (Reditus) commeth of the French (Rent. i.vectigal, pensitatio annua) and signifieth with vs, a fumme of mony or other confideration issuing yearly out of land or tenements. Plouden cafu Browning. ful. 132.b. & fol. 138. a. 141.b. There be three forts of rents observed by our common Lawyers: that is, Rent seruice, Rent charge, and Rent feck. Rent feruice is, where a man houldeth his land of his Lord by fealty, and certaine rent, or by fealty, seruice, and certaine rent. Litleton lib. 2. ca. 12. fol.44. or that which a man, making a leafe to another for terme of yeares, referueth yearely to be paid him for the

fame. Termes of lawe . verbo Rents, who glueth this reason thereof, because it is in his libertie, whether he will distraine. or bring an action of debt. A Rent charge is that, which a man making ouer an effate of his land, or tenements to another. by deede indented either in in fee, or fee tayle, or leafe for terme of life, reserveth to himfelfe by the faid indenture a fumme of money yearely to be paide vnto him with clause of distresse, or to him and his heires. See Litleton, vbi supra. A Rent feck, otherwife a drie rent, is that, which a man making ouer an estate of his land or tenement, by deede indented, referueth yeerely to be paid him without clause of distresse mentioned in the Indenture. Litleton vbi supra. and termes of the lawe, verbo Rents. fee the newe expositour of lawe Termes: See Planden, cafu Browning . fol. 132 . b . See the differences betweenea rent, and an annuitie. Dector and Student.cap. 30. dialo. primo.

Reparatione facienda, is a writ, which lieth in divers cases, where of one is, where three be tenents in common, or ioynt tenents, or pro Indiviso, of a mille, or house which is fallen into decay, and the one being willing to repaire it, the other two

will not . In this case, the party willing shall haue this writ against the other two. Fitzh. nat. br.f. 127. where read at large the form & many vies of this writ. as also in the Regioria. fol. 153.b.

Repeale, commeth of the French (Rappel. i. Revocatio) and fignifieth in our common lawe euen the same; as the Repeale of a statute, Rastall titulo Repeale. Brooke yfeth Repellance in this fignification, titulo Repellance.

Repleader (Replacitare) is to plead againe, that which was once pleaded before . Rastall, titulo Repleader. See the newe booke

of Entries, verbe Repleder.

Replegiare. See Replevie. See Second deliverance.

Replevie (Pleuina) is the bringing of the writ called Replegiarifacias, by him that hath his catel or other goods distreined by another for any cause, and putting in suerty to the Shyreue, that ypon the delinery of the thing distreined, he will perfiew the action against him that distreined. Termes of lawe. See Replegiare. It is vied also for the bayling of a man. pl. cor. fol. 72.73.74. & West pri. cap. 11. & cap. s q. anno 3. Ed. I.

Replegiare de averis, is a writ brought by one, whose catell be distreined or put in pound vpon any cause by another, vpon furety given to- the Shyreeue to persiew the action in lawe. anno 7.H.8.cap.4.Fitzh.nat. br. fol. 68. See the Register original, of divers forts of this writ called Replegiare in the table verbo eodern. See also the Register Iudiciall, fol. 58. 6 70. see also the newe boke of Entries. verbo Replevin, See Dyer. fol. 173.nu. 14.

Replevish (Replegiare) is to let one to mainprise vpon suretie.

anno 3. Ed. 1. cap. 11.

Replication (replicatio) is an exception of the second degree made by the plantife vpon the first answer of the Defendant. West. parts 2. symbol. titulo Chauncerie. fect. 55. & Westm. 2. anno 12. Ed. pri. cap. 36. This is borowed from the Civilians, De replicationibus, lib.4. Institutio. titulo. 14.

Report (Reportus) is in our common lawe a relation, or repetition of a case debated, or argued.which is sometime made to the court, vpon reference from the court to the Reporter, somtime to the world voluntarily, as Ploydens reports, & fuch like.

Reposition of the Forest, was an act whereby certaine forest grounds being made purlieu vpon view, were by a second view laide to the Forest againe. Manwood, parte pri.pag. 178.

Reprisels (Reprisalia) are all one in the common and Ciuill law. Represalia est potestas pignorandi contra quemlibet de terra debi-

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toris data creditori pro iniuriis & damnis acceptis. Vocabularius v. tringa iuris. This among the anneient Romans was called (Clarifatio) of the verb (Clarifo. i. res clare repeto) It is called in the statute anno 27. Ed. 3. Stat. 3. cap. 17. lame of Marque, of the German word March . i. terminus limes. And the reason may be, because one destitute of Iustice in another territory, redreffeth himfelfe by the goods belonging to men of that territorie, taken within his owne bounds.

Requests (Supplicum libelli, Curia Requisitionum) is a Court of of the same nature with the Chauncerie, redreffing by equitie the wrongs that poore men doe fuffer at their hand, whose might they are not able to withstand either in lawe or otherwife. It tooke beginning as fome menthinke, by commiffion from King Henry the 8. before which time the Mafters of Requests had no warrant of ordinary Iurisdiction, but travailed betweene the Prince and petioners, by direction from the mouth of the King. Guins preface to bis readings, But fee Court of Requests.

Rescept (Receptio) scemeth to be an admission of a third person to pleade his right in a cause formerly commenced, betweene other two. See the newe booke of Entries . verbo Resceit.v. Aide prier. The Civilians call this admissionem tertii pro suo interesse. Of this you have one example in the Termes of lawe. viz, if Tenent for terme of life. or tenent for terme of yeares bring an action: he in the reversion commeth in, and prayeth to be received to defend the land, and to plead with the Demandant. Many more you may haue in Brooke, titulo, Resceite. fol. 207. See Perkins Dower. 448. eceit is also applied to an admitrance of plee, though the controuersie be but betweene two onely. Brooke estoppell in many places.

Rescept of homage, is a relative to doing homage, for as the Tenent, who oweth homage, doth it at his admission to the land: so the Lord receiveth it. Kuchm

fol. 148. See Homage.

Rescons (Rescussius) commeth of the French (Rescourre se Rescourre du danger. i.asserere se ab iniuria) It significath in our common law a resistance against a lawfull authoritie: as for example, is a Baylise, or other officer vpon a writ doe arrest a man, and another (one or more) by violence doe take him away, or procure his escape: this act is called, a Rescus Cassaneus in his booke de consuetud. Burg. hath

the same word coupled with (relistentia) fol. 294. whereby it appeareth, that other nations do vse this word in the same signification that we doe, or the very like. It is also vied for a writ, which lyeth for this act called in our lawyers latine (Breue de refcullu) whereof you may fee both the forme and vie in Fitzh. nat. br. fol. 101. and the register originall: fol: 125. See the new booke of Entries. verbo rescous. This rescous in some cases is treason, and in some felony. Crompton. Instace fol: 54. b.

Refeiser (reseistre) is a taking againe of lands into the Kings hands, whereof a generall livery, or ouster lemain was formerly missued by any person or persons, and not according to forme and order of law. Of this see Stawns. praroga: 26. where it is handled at large. See resumption.

Resiance (resiantia) seemeth to come of the French (rasseau, see Rasseau i. residere) and signifieth a mans aboad or continuance in a place. Old natibriso. 85. whence also commeth the participle (resiant) that is continually dwelling, or abiding in a place. Kitchin, fol. 33. It is all one in truth with Residence, but that custome of speach tyeth that onely to persons ecclesiasticall.

Reservation, fignifieth that rent or service which the graunter in

any graunt tyeth the grauntee to performe vnto him, or them, or the Lord Paramonte. Perkins re-

sernations: per totum.

Residence (residentia) commeth of the Latine (residere) and is peculiarly vsed both in the Canon and Common lawe, for the continuance or abode of a Parson or Vicar upon his benefice. The default whereof (except the partie be qualified, and dispensed with) is the losse of tenne pounds for euery moneth, anno 28. Henr. 8. cap. 13.

Resignation (resignatio) is vsed particularly for the giving vp of a Benefice into the hands of the Ordinarie, otherwise called of the Canoniffs (renunciatio.) And thoughit fignific all one in nature with the word (Surrender) yet it is by vie more restreined to the yeelding up of a spiritual living, into the hands of the Ordinarie, and Surrender to the giving vp of temporall lands into the handes of the Lord. And a refignation may now be made into the hands of the King, as well as of the Diocelan, because he hath supremaen authoritatem Ecclesia. Ricam, as the Pope had in time past. Plou den. casu Grendon. fol. 498. a.

Refort, is a word vied properly in a writ of ayle, or confe-

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nage, as discent is in a writ of

right. Ingham.

Respects computi Vice-comitis habendo, is a writ for the respiting of a Shyreeues accompt vpon instruction, directed to the Treasurer and Barons of the Exchequer. Register fol. 139

or 279.

Respiato of homage, (respectus homagii) is the forbearing of homage, which ought first of all to be performed by the tenent, that holdeth by homage. Which respight may be occafioned vpon divers good reafons: but it hath the most frequent vse in such as hold by Knights seruice in capite: who because the Prince cannot be at leasure to take their homage, do pay into the Exchequer, at certainetimes in the yeare, some small summe of money to be respighted, vntill the Prince may beat leasure to take it in perfon.

Responsions (responsiones) seeme to be a word vsed properly and especially by the knights of S. Iohn of Ierusalem, for certaine accompts made vnto them by such as occupied their landes or stockes. anno 32. H. 8. vap. 24.

Responsalis, is he that commeth for another at the day assigned for his appearance in Court, Braston. Fleta seemeth to make a difference betweene

atturnatum, esfoniatorem & respon-Salem, lib. 6. cap. II. S. Officiam: as if eloniator came onely to alledge the cause of the parties absence. be he the demandant or tenent, and responsalis came for the tenent not onely to excuse his absence, but also to signifie what triall he meant to vindergoe, viz. the combat or the countrie. lib. 6. cap. 11. S. Si autem. A man in auncient time could not appoint an Atturney for him, without warrant from the king. Fleta, eodem cap. 13. in fine. Sce Atturney. This word is vied in the Canon lawe, Et significat procuratorem vel eum qui absentem excusat. cap. Cum olim propter. extra. de rescript.

Restitution (restitutio) is a yeelding vp againe of any thing vnlawfully taken from another. It is yied in the common law, most notoriously for the setting him in possession of lands or tenements, that hath bene vnlawfully dissessed of them, which when it is to be done, and when not, see Cromptons Iustice of peace. fol. 144. b. &c. vsque 149.

Restitutione extracti ab Ecclesia, is a writto restore a man to the Church, which he had recouered for his sanctuarie being suspected of selonie. Register ori. fol. 69.a.

Restitutione temporalium, is a writthat lyeth in case, where a

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man being elected, and confir-, med Bishop of any Diocesse, and hath the Princes royall alfent thereunto, for the recouery of the temporalities, or Baronie of the faid Bishopricke with the appurtenances. And it is directed from the King to the Escheatour of the Countie, the forme whereof you have in the Regist. origin. fol. 294. and in Fitz, nat. br. fol. 169. Where you may read also, that it lyeth for those Abbots and Priors newly clected and confirmed, that were of the kings foundation.

Resummons (resummonitio) is compounded twice, that is, of re, sub, and Moneo: and significath a second summons and calling of a man to answer an action, where the first summons is deseated by any occasion, as the death of the partie, or such like. Brook tit. See Resummons. fol. 214. See of these toure forts, according to the foure divers cases in the Table of the Register Indicials. fol. 1. See also the new booke of Entries, verbo. Reattachement, & Resummons.

Resumption (resumptio) is particularly vsed for the taking again into the Kings hands, such land or tenements, as before upon false suggestion, or other error, he had deliuered to the heire, or graunted by leters patents to any man. Brooke, titulo Repellance, & Resumption. fol. 298.
Thus it is applyed, anno 31. H.

6.cap. 7. See Refeiser. Retainer, commeth of the French (retenir.i. detinere retinere) It signifieth in the comon law, a feruant not meniall nor familiar. that is not continually dwelling in the house of his Lord or Master, but onely ving, or bearing his name, or livery. This livery was wont to confift of hats fotherwise hoods) badges, and other suits of one garment by the yeare. anno pri: R. 2.cap. 7. Thefe were taken by great Lords, many times vpon pourpose of maintenance, and quarels, and therefore they have beene justly, for the better freedome of law, forbidden by many statutes: as namely by annogri: R. 2. cap. 7. vpon paine of imprisonment, and greenous forfeiture to the King: and againe anno 16 emfd. cap. 4. & anno 20. einsedem, cap. 1. & 2. aud anno pri. H. 4. cap. 7. by the which the Lords offending herein should make ranlome at the Kings will, and any Knight or Esquire hereof duly attainted, should loofe his faid Liuery, and forfeit his fee for euer; and any yeoman wearing the Livery of the King, or other Lord, should be imprisoned, and make raunfome at the Kings will, onely some fewe excepted in the faid flature: which flature

is farder confirmed, and explaned anno 2. H. 4. cap. 21. 6 an. 7. ein [d. cap. 14. 6 anno 12. ein [d. cap. 2. & anno 8. H. 6. ca. 4. And vet this offence was so deeply rooted, that Edward the fourth was driven to confirme the former farures, and farder to extend the meaning of them, as appeareth by the statute made anno 8. Ed. 4. cap. 2. adding an especiall paine of five pounds to euery man that giueth fuch Liuery, and as much to enery one fo retained, either by writing, oath, or promise, for cuery moneth. Yet is not this fault so well looked vnto, but that there is need of more pregnant lawes for the redresse thereof, or at the least beter execution of those, that be already made. These be by the Feudists called (affidati.) Sic enim dicuntur, qui in alicuius fidem & tutelam recepti sunt. Neapol. constitu. li. 3. titulo 7. And as our retainers are here forbidden: fo are those (affidati)in other countrics.

Retraxit, is an exception against one that formerly commenced an action, and withdrew
it, or was non-suit before triall.
Brooke. titulo. Departure in despight, & Retraxit. fol. 216. See
also the new booke of Entries:
verbo Deperter & verbo retraxit.
Returne (returna) commeth of

the French (retour. i. reditio, reuer-

(io, recursus) and in our common law, hath two particular applycations, as namely the return of a writ by Shyreeues, and Bayliffs, which is nothing but a certificate made to the Court, whereunto the writ directeth him, of that which he hath done touching the seruing of the same writ. And this among the Civilians is called Certificatorium. Of returnes in this fignification. speake the statutes of Westm. 2. cap. 39. anno 13. Ed. prim. and Tractatus contra Vice-comites & Clericos, with divers other, collected by Rastal, titulo Returne of Shyreenes. So is the returne of an office, Staunf. prarog. fol. 70. 2 certificate into the court, of that which is done by vertue of his office: See the Statutes of dayes in banke. anno 51. H. 3. & anno 32. H. 8. cap. 21. And in this fignification Hilary terme is said to haue 4. returnes. viz. Octabis Hılarii, Quindena Hilarii, crastino Purificationis, Octabis Purificationis: and Easter terme to haue 5. returnes, viz. Quindena pascha, Tres pasche, mense pasche, Quinque pasche, & crastino Asconsionis. And Trinity terme 4. returnes. i. Cra-Stine Trinitatis, Octabis Trinitatis, Quindena Trinitatis, Tres Trinitatis. And Michaelmas Terme 8. returnes. fc. Octabis Michae. lis, Quindena Michaelis, Tres Michaelis, Mense Michaelis, Cra-(tino stino animarum, Crastino Martini, Octabis Martini, Quindena Martini.

The other application of this word is in case of Repleuy. For if a man distraine catell for rent. &c. And afterward justifie or avowe his act, that it be found lawfull, the catell before delinered vnto him that was diffrained vpon security given to follow the action, shall now be returned to him, that distrained them. Brooke, titulo Returne d'auers & hommes. fol. 218. you shall finde this word often vsed in Fitzh. nat: br. as appeareth in the word Returne in his table; but in all those places it hath the one or the other of these two significa-

Returno habendo, is a writ, which lyeth for him that hath auowed a diffresse made of catell, and proved his distresse to be lawfully taken for the returne of the catell distrained vnto him, which before were explevied by the party distrained, vpon surety given to persiew the action. Terms of law, werbo Replevin.

Returnum aueriorum, is a writ Iudiciall, graunted to one impleaded for taking the cattell of another, & vninst deteining of them contravadium & plegros, and appearing vpon summons is dismissed without day, by reason that the plaintise maketh de-

fault, and it lyeth for the returne of the cattell vnto the Defendant, whereby he was summoned, or which were taken for the security of his apparence vpon the summons. Register Indicial. fol. 4. a.

Returnum irreplegiabile, is a writ iudiciall fent out of the common plees to the Shyrecue, for the finall restitution or returne of catell to the owner, vniustly taken by another as dammage seisant, and so found by the Iury before Iustices of Assis in the County. For which see the Register Iudiciall fo. 27. a.b.

Reue alias Grene (Prafectus) 18 made of Gerefa the Saxon word for a gouerner. Lamb: explica: of Saxon words, verb. Prafectus, and that by reiecting the first sillable, which (he faith) among the Saxons is vsuall. It fignifieth in our common law, the Bayliffe of a Fraunchis or maner, and especially in the West parts. Of this you may see Kitchin. fol. 43. See Greue. See Shyreeue. See also of this word M. Verstigan in his re-Autution of decayed intelligence. cap: 10. speaking much to the same effect.

Renels, seemeth to be derived from the French word (Reneiller. i. excitari, velexpergesseri) It signifieth with vs sports of daunting, masking, comedies, tragedies, and such like vsed in

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the Kings house, the houses of court or of other great personages. The reason whereof is, because they are most vied by night, when otherwise men commonly sleepe, and be at rest. In the Kings house there is an officer called the Master of these Reuils, who hath the ordering, and dispositions of these pastimes in the court.

Reverse, is a French word, fignifing as much as Reditio, Reverse, Reditus. It fignifieth properly the yearely rent that groweth to every man from his

lands and possessions.

Reversion (Reversio) significath in the comon lawe, a possibility referued to a mans selfe and his heires, to haue againe lands or renements made ouer conditionally vnto others, vpon the defect or fayling of fuch condition. The difference betweene a Remainder, and a Reversion is, that a Remainder is generall, and may be to any man but to him that graunteth, or conveieth the land, &c. for terme of life onely or otherwise:a Reversion is to himfelfe from whome the conveiance of the land, &c. proceeded, and commonly perpetuall, as to his heires alfo, Litleton, fol. 112. in fine. See Cooke lib. 2. Sir. Hugh Cholmleis cafe, fol. 51.a. And yet a Reuerfion is fometime confounded with a remainder. Cooke ls. 2. Tookers case, fol. 67. b. Plowden, case Hille. fol. 170. b. what this word Reuersion in a deede doth carie. See Litleton lsb. 2. ca. 12.

Revocation (Revocatio) is the calling backe of a thing granted. Of these you have divers in the Register originall, as Revocationem brevis de audiendo & terminando. fol. 124. Revocationem prasentationis. fol. 304 & 305. Revocationem protectionis, fol. 23. Revocationem secialium Insticiariorum quia, & c. fol. 205.

Reviving, is a word metaphorically applied to rents and actions and fignifieth a renewing of them, after they be extinguished: no leffe then if a man, or other living creature should be dead, and restored to life. See divers examples in Brooke titulo. Revivings of rents, actions, &c. fol. 223.

Rewardum. See Regard.

Reweye anno. 43. Elizab. cap.

Rie, is a Saxon word fignifiing as much as Regnum, in Latine.

Camd. Britan. pag. 346.

Riens passe per le fait, is a forme of an exception taken in some cases to an action. See Brooke titulo Estaunger al fait or Record.

Riens dans le gard, was a chalenge to a Iuric, or Enquest within London. for that foure sufficient men of livelyhood to the yearely value of fortie shillings aboue all charges, within the same City, and dwelling and having within the same ward, weare not impanelled therein. But it is abrogated by the statute. Anno 7. H.7. eap. 4.

Rier countie (Retrocomitatus) seemeth to come of the French (Arriere. i.posterior) and in the statute. anno 2. Ed. 3. cap. 5 is opposite to the open countie. And by comparison of that statute with Westm. 2. cap. 38. it appeareth to be some publique place, which the Shyrecue appointeth for the receipt of the kings money after the ende of his Countie. Fleta saith that it is dies crastinus post comitatum. lib. 2. cap. 67. S. Quia Iusticiarii.

Right Rectum. See Recto.

Ridings, be the names of the parts or divisions of Yorke shire, being three in number. viz. West riding, East riding, and North riding. Cama. Britan. pag. 530. This word is mentioned in the statute, anno 22. H. 8. cap. 5. & 23. H. 8. cap. 18. and M. West. parte 2. symbol. titulo Inditements saith, that in Inditements within that Countie, it is requisite that the towne, and the Riding be expressed. seet. 70. Q.

Right in the Court. anno 6. R. 2.stat. 1. cap. 12. See Rectus in

Curia.

Ringhead, anno 43. Elizab. cap.

Riot (Riottum) commeth of the French (Rioter. i. rixari.) It fignificth in our common lawe. the forcible doing of an vnlawfull act by three or more perfons affembled togither for that purpose. Westm. parte. 2. symbol. titulo, Inditements. (ect. 65. P. The differences and agreements betweene a Riot, a Rout, and vnlawfull assembly. See in M. Lamb. Eirenarcha. lib. 2. cap.5. &c. See the flatute. I. M. I. cap. 12.6 Kitchin fol. 19. who giveth these examples of Riots: the breach of inclosures, or banks or conduicts, parks, pownds, houses, barnes, the burning of stacks of corne. M. Lamberd vbi supra. vseth these examples: to beate a man, to enter ypon a possession forcibly, See Route. and unlawfull assembly. See also Cromptons Instice of peace diners cales of Riots, &c. fol. 53. See Tribings.

Ripiers (Riparii) be those that vie to bring fish from the sea coast to the inner parts of the land. Camd. Britan pag. 234. It is a word made of the latine (Ripa).

Rise (oriza) is a kinde of corne growing in Spaine, Asia, and India, with the which both good foodes and medicines be

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made. whereof if you desire farder knowledge, reade Gerards herball.lib.1.cap. 52. This is mentioned among merchandize to be garbled in the statute. anno 1.

Iaco.cap. 19.

Roag (Rogus) seemeth to come of the French (Roque.i. arrogans) It fignifieth with vs an idle sturdie beggar , that wandring from place to place without pasport, after he hath beene by Iuflices bestowed vpon some certaine place of aboade, or offered to be bestowed, is condemned to be fo called . who for the first offence, is called a Roag of the first degree, and punished by whipping, and boring through the griffell of the right eare with a hot yron an inch in compas: & for the second offence, is called a Roag of the second de gree, and put to death as a felon, if he be aboue 18. yeares ould. See the statute, anno 14. Elizab.cap.5.6 18.einsdem, cap. 3. & anno 36. cap. 17. If you will know who be Rogues, and to be punished as Rogues by lawe Reade Lamberds Eirenarcha.lib. 4.cap. 4. See Rout.

Robberie (Robaria) commeth of the French (Robbe.i.vestis) and in our common lawe, a felonious taking away of another mans goods from his perfon or presence, against his will, putting him in seare, and of purpose to steale the same goods. West. parte 2. symbol. ti. tulo Inditments, sett. 60. This is sometime called violent thest. Idem, eodem. which is selonie for two pence. Kitchin fol. 26. and 22. lib. Assis, 39. Robaria is a word vied also in other nations, as appeareth by the annotations vpon Mathaus de Assista, descis, 82. nu. 6. pag. 122. See Skene verbo Reis libro de verbo significat. See Cromp. Instice of peace. f. 30. b.

Roberdsmen, anno 5. Ed. 3. eap. 14. & anno 7. R.2. cap. 5. M. Lamb. interpreteth them to be mighty theeues. Eirenarch. lib.

2.cap.6.pag.190.

Rodkinghts, alias Radkinghts, are certaine feruitouts, which hould their lands by feruing their Lord on horseback. Bratton lib. 2.cap. 36. nu. 6. saith of them, debent equitare cum Domino suo de manerio in manerium. vel cum Domini vxore. Flota. lib. 3.cap. 14.5. Continetur.

Rodde (Pertica) is otherwise called a pearche, and is a measure of 16. foote and an halfe long, and in Stafford Shire 20. foote, to measure land with See

Fearch.

Rofe tyle, alias Creast tyle, is that tyle which is made to lay vpon the rudge of the house. anno 17. Ed. 4. cap. 4.

Rogation neeke (dies rogationum) is a time well knowne to

all,

all being otherwise called Gang. weeke. The reason why it is so termed, is because of the especiall denotion of prayer and fafling, then injoyned by the Church to all men, for a preparatine to the joyfull remembrance of Christs glorious ascension, and the descension of the holy Ghost, in the forme of cloven tongues shortly after. And in that respect the solemnization on of carnall matrimony is forbidden from the first day of the faid weeke, vntill Trinitie Sunday. See Aduent.

Roode of land (Roda terra) is a certaine quantitie of land being the fourth part of an acre. ann. s. Eliz. ca. s. See Perch.

Roll, alias Roule (Rotulum) commeth of the French (Rouler. i. volvere, pervolvere, rotare) whence also is the French (Role on Ronle.i.volumen, catalogus, Codex)It fignifieth with vs a shedule of paper, or parchment turned, or wound vp with the hand to the fashion of a pipe. So is it vied in Stawnf. plees of the Crowne, fol. 11. The chequer rolle of the kings house, out of the statute anno 3. H. 7. cap. 13. which fignifieth nothing but the catalogue, wherein the names of the Kings houshould servants are set downe. And anno 5. Rich. 2. cap. 14. stat. pri: there is mention made of the great Rolle of

the Exchequer which seemeth otherwise to be called the pipe. The Roules is also a place destinated by Ed. 3. to the the keeping of the Rols, or Records of the Chauncery situat betweene the two Temples in London. Camd: Britan: pag. 321. the Master whereof is the second man in Chauncery, and in the absence of the Lord Chaunceler, or Keeper, sitteth as Judge, being commonly called the Master of the Rols. See Master of the Rols.

Rome, and Scot, as you would fay, the tribute due to Rome: it is called by Mathaus Westmonasteriensis, Consuetudo Apostolica, à qua, neque Rex, neque Archiepiscopus, vel Episcopus, Abbas, vel Prior, aut quilibet in regno immunis erat: and was first graunted by Offa a Saxon King. Camd. Britan. pag. 306. See Peter pence: and Roger Houeden parte poster. Inorum annalium. fol. 344. a. in Henrico secundo.

Roundlet, is a certaine meafure of wine, oyle, &c. containing 18. gallons and a halfe,

anno 1. R. 3. cap. 13.

Route (Routa) is a French word figuifying a companie, or flocke: as (vne grande route de gents, on de cerfs. i. grex hominum, longa ceruorum series.) It figuifieth in our common lawe, an af-

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sembly of three persos or more, going on about forcibly to comit an vnlawfull act, but vet doe it not. Westm. parte 2. frm. titulo Indictments. fect. 65. o. M. Lamberd thus faith of it: A Route is the same, which the Germans yet call Rot, meaning a band or great companie of men gathered together, and going about to execute, or executing indeed, any ryot or vnlawfull act: and (faith more)it is said properly of the multitude that affembleth themselves in fuch disorderly fort, for their common quarels. As if the inhabitants of a towneship doe assemble to pull downe a hedge, or pale, to haue their common, where they ought to have none, or to beate a man, that hath done them some publike offence or displeasure. But the statute of 18. Ed. 3. stat. prim. cap. vnico. which giueth processe of outlawrie against such as bring routes into the presence of the Iustices, or in affray of the people, and the Statute of 2. Rich. 2. cap. 6. that speaketh of riding in great routes to make entrie into lands, and to beate others, and to take their wines, &c. doe seeme to vuderstand it more largely. And it is a route, whether they put their purpose in execution or no: if fo be, that they do goe, ride, or moue forward after their meeting. Broke, titulo Riot. 4. 6 5. So (as it feemeth) a route should be a speciall kind of vnlawfull affembly: and a riot the disorderly fact committed generally by any ynlawfull affembly. Howfoeuerit be two things are common both to Riot, Route, and vnlawfull affembly: the one, that three persons at the least bee gathered together: for fo it is commonly taken at this day, as I have learned: the other. that they being together, do breed disturbance of the peace, either by fignification of freech, shew of armour, turbulent gesture, or actuall and expresse violence : fo that either the peaceable fort of men be vnquieted, and feared by the fact, or the lighter fort, and busie bodies emboldened by the example. Thus farre M. Lamberd in his Eirenarcha, lib. 2. cap. 5. &c. Where you may reade more worth the noting, though too long to be copied out. See Riot, and Vnlawfull afsembly. Kitchin giueth the same definition of a Route, fol. 20.

Rowing of clothes anno 27.H.8.

cap. 13.

Royall assent (regins assensus) is that approbation which the King giueth to a thing formerly done by others: as to the election of a Bishop by Deane and

Chap-

Chapter. Which given, then he sendeth an especiall writ to some person for the taking of his sealtie. The forme of which writ you may see in Fitz. nat.br. fel. 170. C. And also to a bill passed by both the Houses of Parlament. Cromptons surs. fol. 8. which affent being once ginen, the bill is indorsed with these wordes: Le Roy veult, i. it pleaseth the King. If he resuse to agree vnto it, then thus: Le roy aduisera. 1. the King will yet thinke of it. See Parlament.

Royalties (regaliavel regalitates) be the rights of the King. Iura Regis. Hotoman in verbis feudal: verbo. Regum Feudista. And so are they understoode of vs likewise, who otherwise call them the Kings prerogatine. See Prerodatine. And some of these be fuch as the King may graunt vnto common persous, fome so high, as may not be separated from his owne Crowne prinatine as the Civilians terme it, though cumulatine he may. See Bracton lib. 2. cap. 5. These be in some fort expressed in the first of Samuell. cap. 8. but thefeigeneralities bee specified more at large by those Lawyers that write of this point. Among whom I especially commend Mathaum de Afflictis vpon the title of the Fends. Que sint regalia. being the 33. title of the third booke, as some divide them, but according to others the 56. of the second booke: where be named in the text 25. specialties of Royalties. See also Hotomans Commentaries in lib. 2. Feudor. cap. 56.

Rouge crosse. See Herald.

Rudge washed Kersey.i. made of sleece wooll washed onely on the sheepes backe. anno 35. Eliz. cap. 10.

S

Ables. See Furre. Sac (Sacha vel Sacca) isa. Royalty or priviledge touching plee, and correction of trespasses of men within a maner. Restal, titulo expos: of words: where he addeth this reason: because (saith he) Sac in english is (Encheson) in French: as to lay, for fick fack, pour quel encheson.i.for what hurt. That which our common lawyers call (encheson) the true French man termeth (Achoife .i. occasionem) as (Achoise fort grande, occasio ampla) or els may enchefon come of (Encheon i. incidere) which we in english call an accident, or incident. But all this is farre enough from (lac) and from the interpretation thereof, asit is a liberty or priviledge. Bracton hath the word, as Stamnford noteth out of him, pl. cor: lis pri: cap: 23. but neither of them both doe particularly interpret it. Bractons words be thefe lib. 2.

tract. 2. cap. 8. vel fi fit aliquis qui de concessione Domini Regis talem habeat libertatem (Rout fook es fack . Tolnetum Team Infangthefe, & Hutfanghhefe) qui muetus fuerit seistus de alique latrocinio, sient Hondhabende er Backberend, tales habent regale potestate: & unde qui tales libertates habet, habebut prisonam suam detalibus, quia possunt tales in Curia sua indicare. Of the which mater he speaketh also in lib. 2. cap. 24. nu. 2. 6 2. and againe lib. 3. tracta. 2. cap. 35. But in none of these places he giueth any interpretation of the word. Saxon in his description of England defineth Sack to be a forfeiture, as doth Rastall vbi Supra. fol, 132. M. Camden in his Britan: pag. 415. speaking of Lincoln. hath these words: Eduardo Confessore regnante, erant. (ex censuali libro loquor) 1070. mansiones hospitala, & duodecim Lageman habentes focam & facam. To all these adde Bracton, lib. 2. cap. 5. where he writeththus. Sunt & ahares quasi sacra, qua personam Regis respicient, & aliquando transferri non possunt, nisi Iusticiaris Domini Rogis, sicut visus Francipleou, placita de vetito nannio, emendatiotransgressionis Assisarum, Indicium latronum, sicut de illis qui habent fock & fack, & huinfmodi omnia, qua pertineut ad pacem, & per consequens ad Coronam. I am informed, that the word (fack)

in the Saxon tongue doth properly fignific fo much as feaula) with the Latines: whence wee in English have the word (fake) 25 (for whose sake.) M. Skene de werber. Signifo verbo, Sacke, wiiterh thus! In fome old books it is called placitum o emenda de transoressione hominum in Curia nostra. In the lawes of king Edward set foorth by M. Lamberd. fol. 132. 16 is written, (Sacha) Sacha aute est, si quilibet alique nominatim de aliquo calumniatus fuerit, & ille negauerit, forusfaltura probationis vel negationis, (si euenerit) (ua erit. Which may be called the amercement payed by him, who denieth that thing, which is proued against him to be true, or affirmeth that thing, the contrarie whereof is true. Thus farre M. Skene. Fleta of this hath these words: Sake fignificat acquietantiam de secta ad Comitatum, & Hundredum. lib. pri. cap. 47. S. Sake. But by all those I find not any reason of the word, that is, why this liberty should be so called, and therefore I must leaue it to berer Antiquaries or Linguists. see Rog. H. part poster. suorum annalis f. 345.

Saccus cum brochia, seemeth to be a service of finding a sacke and a broch to the King by vertue of a tenure, for the yse of his armie. Brack la. 2 c. 16. 11.6, Sacke of mooll, (saccus lane) is

a quan-

a quantitie of wooll, that containeth 26. Itone, and a stone, fourteene pounds, amo 14. Ed. 3. stat. 1. cap. 21. See Sarplar.

Sacramento recipiendo, quod vidua Regis se non maritabit sine licentia Regis, is a writ or commission to one for the taking of an oath of the Kings widowe, that she shall not marie without the Kings licence. Register original, fol. 298. a.

Safeconduict. See Saulf con-

duict.

Salus, is a coine of gold flamped by king Henry the fixth in Fraunce, which onely come, with another of Blanes of eight pence a peice, was current in those places of Fraunce, where King Henry was obeyed. Stomes Annals, pag. 586.

Safe pledge (Salvus plegius) is a suretie giuen for a mans apparence against a day assigned, Braston lib. 4. cap. 2. mu. 2. where it is also called certus plegi-

us.

Sailing ware anno prim. R.3. cap.8.

Sak. See Sac.

Sakebere, in Britton cap. 15. 6929. seemeth to be he that is tobbed, or by thest deprined of his goods: with whome Bratton also agreeth, lib. 3. tratta. 2. cap. 32.mu. 2. in these words: Furtum vero manifestum est, whi latro deprehensus sit seissim de aliquo la-

trocinio Sc. Hondhabende, en Backberend es insecutus fuerit per aliquem, cuius res illa fueris. qui dicitur Sacaburthe. & c.or Sathaber. as Stammford calleth it,pl. cor.lib. pri. cap. 21. The interpretation of this word I find not . Onely M. Skene de verb. interpretatione. verbo. (Sacreborgh) thinkethit should rather be written. Sickerborgh, of (Sicker. i. Securus) and (Borgh.i.plegins) fignifing a fure cautioner or suretie which one findeth to another for theft, or flaughter: whereof he offereth to accuse him judicially. For in this case it behoueth the perfiewer to oblige, or binde himfelfe into the hands of the officer, or before a ludge competent with Sicker borgh, or fure caution, that he will perfiew in forme of lawe. And by this meanes it may be, that the accufer was wont with vs to be called Sakbere of a circumstance, because in this case he was surely bound to persiew. Sycker is alfo an old english word, signifiing as much as fure, fecure, or certaine, and see Borowe.

Salet, is a headpecce, anno 4. & 5. Phil. Mar. it seemeth to come from the French (Sa-

lut.i. Salus).

Salmon sewse, seemeth to be the young fry of Salmon, quasi salmon issue. anno 13. R. 3. stat. pri. cap. 19.

Nnn i Salva

Salva Gardia, is a securitie given by the King to a straunger, fearing the violence of some of his subjects, for seeking his right by course of lawe: the forme whereof see in the Register originals. fol. 26. a.b.

Sanctuarie (Sanctuarium) is a place priviledged by the prince, for the safegard of mens lines, that are offenders, being founded vpon the lawe of mercie, and voon the great reuerence, honour, and denotion, which the Prince beareth to the place, whereunto he graunteth fuch a priuiledge. Of this you may read a sufficient treatis in Stawnf. pl. cor. lib. 2. cap. 38. This feemeth to have taken beginning from the Cities of refuge, which Morfes appointed them to flie vnto for safegard of their liues, that had by cafualty flaine a man. Exodus, cap. 21. In baftardly imitation whereof, first the Athenians, then Romulus erected fuch a place of immunity, which they, & he after them called Ay (lum. Polidor: Virg: de inventione rerum, lib. 3. cap. 12. The Emperours of Rome made the places of their owne statues or Images, a place of refuge, as appeareth. Cod. lib. 1. titulo 15. De iis qui adstatuas confugiunt: as also the Churches : eodem, titulo 12. De sis qui ad ecclesias confugiunt, &c. But among all other nations,

our auncient Kings of England seeme to have attributed most to these Sanctuaries, permitting them to shelter such, as had committed both felonies, and treasons, so that within fourty daies they acknowledged their fault, and so submitted themselves to banishment : during which time, if any man expelled them, if he were laye, he was excommunicated, if a Clerk, he was made irregular. But after fourty daies noe man might releeue them. Stawnf. vbi supra. See of this the new booke of Entries: verb Santtuary : and Fleta: lib. I. cap. 29. And how by degrees they have beene taken away, you may read partly in him, and partly in the statutes. a. 26. H. 8. ca. 13. 6 anno 28. eiusdem, ca. 7. & anno 22. eiusa. ca. 12. 6 anno 33. eiu (dem, cap. 15.6 anno pri: Ed. 6. cap. 12. & anno. 2. einsdem, cap. 2. & cap. 33. & anno 5. einschem, cap. 10. See Absuration.

Salarie (falarium) is a recompence or confideration made to any man for his paines or industry bestowed upon another mans busines. So called, as Pling saith, qui tam necessarium quamsal homini. The word you have anno 23. Ed. 3. ca pri.

Salmon pipe, anno 25. H. 8. cap. 7. is an engine to catch Salmons

and fuch like fish.

Sandall, anno 2. Rich. 2. cap. 1. is a merchandize brought into England. And it seemeth to be a kinde of wood brought out of India. For (Sandal) in French so signifieth, and in latine it is called Santalum.

Sarcling time, or time of farcling. Seemeth to be all one with hey seele. Or the time when the country man weedeth his corne. And it proceedeth from the latine sarculare, to rake or weed. Or from the French (Sarcler) which hathall one signification.

Sarpler (Sarplera lana) is a quantitie of woll. This in Scotland is called Serplathe, and conteineth fourescore stone, for the Lords in the counsell in anno 1527. decreed foure serpliathes of packed wolle to containe 16. score stone of woll, by the trafique of Merchants now vied. The Merchants vie to fraught for their goods to Flanders, by the Sack, to Fraunce, Spaine, and England, by the Tunne, and to Dansken and the Easter seas, by the Serpliathe. Skene de verbo. significatione, verbo Serpliathe. with vs in England a loade of wolle (as I have beene informed) confisteth of 80. todde, each todde confisting of two stone, and each stone of 14. pound. And that a Sack of wolle is in common accoumpt

equall with a load: and a Sarpler (otherwise called a pocket) is halfe a Sack . Further than a packe of wolle is a horse loade, which confisteth of 17. stone. two pounds. Fleta lib. 2. cap. 12. faith that all our English meafures are compounded of the peny sterling, which weigheth 32. wheate cornes of the middle fort, and that 2, of those pence make an ounce, and 12. ounces a pound in weight, or 20. shillings in number, and that 8. pound of wheat maketh a ialon or a galon as we now call it, and eight galons a bushell, and 8. bushels a common quarter. Also that 15. ounces of the quantitie aforesaid doe make a merchants pounde. And that 12. such pound and a halfe, make a stone, and that \$4. stone make a waigh, and that two waighes or 28.stone, make a fack of wolle, which ought to waigh a quarter of wheate, and that 12. facks make a last . So that a waigh, and a sarpler seemeth to be all one, but that the farpler is the case, and the weigh respecteth the quantitie of the wolleit selfe: And that a loade and a facke is all one.

Saunkfin, is a phrase vsed by Britton.cap. 119. for the determination, or finall end, of the lineall race, or discent of a kin-

Nnn 2 dred.

dred. It seemeth to come from the French (Sang.i. (anguis) and

Fine.i.finitius.)

Sauer de default, is word for word to excuse a default. This is properly, when a man hauing made default in court, commethafterward and alleadgeth good cause, why he did it, as imprisonment at the same time, or fuch like. Newebooke of Entries verbo. Sauer de default.

Saulfe conduitt (Salvus condu-Etas) is a fecurity given by the Prince, vnder the broad feale to a straunger, for his quiet comming in and passing out of the Realme, touching which you may fee the statuts. anno 15. H. 6.cap.3.6 anno 18. emsdem. ca. 18.5 anno 28.H.8. cap. pri. The forme of this fee in the Register original, fel. 25.

Staunford, was a man very learned in the common lawes of the land, wherein he wrote 2. bookes one termed the plees of the Crowne, the other the Princes prerogative. He florished in the daies of Ed the fixth, and of Queene Mary, being in Queene Maries daies a Iudge,

and knighted.

Scandalum Magnatum, is the especiall name of a wrong done to any high personage of the land, as Prelates, Dukes, Earles, Barons, and other Nobles: and also of the Chanceler, treasurer,

clerk of the priuy seale, steward of the kings house, lustice, of the one bench or of the other.& other great officers of the realm. by falle news: or horrible & falle messages, whereby debates and discords betwixt them and the commons, or any scandall to their persons might arise. anno

2.R.z.cap.5.

Scauage, otherwise called Shewage is a kind of tolle, or custome exacted by Majors. Shyreeue, and Baylifs of Cities and Borough townes, of Mer. chants for wares shewed to be foulde within their precincts. which is forbidden by the statute.anno 19. H. 7. cap. 8. It commeth of the Saxon (Sceame) to behold or view, or to shewe, whence is the word (Sceam-storre.) a theater or thew place, a beholding place. M. Verstegan in his restitution of decayedintelligences litera S.

Scire facias, is a writ Iudiciall, most commonly to call a man to shew cause vnto the Court, whence it is fent, why execution of a ludgement passed, should not be made. This writ is not graunted before a yeare anda day be paffed after the ludgement given, outd nat. br. fol. 151. Scire facias vpon a fine, lieth after a yeare and a day from the fine levied. Otherwise it is all one with the writ ha-

bere.

habere facias seisinam. West. part. 2. simb. titulo sines, sect. 137. Soc an. 25. Edwardi 3. Sta. 5. cap. 2. v. anno 39. Eliz. cap. 7. The Register originall and Judiciall also in the table sheweth many other diuersities of this writ, which reade. See also the newe booke of Entries. verb. Scire facias.

Soyra. Camd. Britan. pag. 103.

& 544. See Shyre.

Scot, seemeth to come of the French (efcor.i. symbolum) Rastall saith it is a certaine custome, or common tallage made to the vse of the Shyreeue, or his Baylifes. Saxon inhis description of England. cap. 11. faith thus: Scot a gadering to worke of Bailes: what he meaneth God knoweth I thinke the place is corruptly printed. Scot (faith M. Camden out of Mathewe of Westm:) illud dicitur, quod ex diuersis rebus in unum aceruum aggregatur. In the lawes of William the Conquerour, let forth by M.Lamberd: fol. 125. you have these words, Et omnis Francigena, qui tempore Edwardi propinqui nostri fuit in Anglia, partueps consuetudinum Anglorum, quod dicunt aue blote, & aue scote persolnantur secundum legem Anglorum.

Scot and Lot. anno 33. H. 8. ca. 19. fignifieth a cultumary contribution laid vpon all subjects after their hability. Roger Houeden writeth it Aulote & Ausco-

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te, in principio Henrici secundi.

Scorall (Scotalla) is a word w fed in the Charter of the Forest. ca.7. in these words, as Pupilla oculi hath them parte 5. cap. 22. Nullus Forestarius vel Bedellus, faciat Scotallas, vel garbas colligat, vel aliquam collectam faciat. etc. M. Manwood parte pri. of his Foreft lames.pag. 216. thus defineth it. A Scotall is where any officer of the Forest doth keepe an alchouse within the Forest, by colour of his office, caufing men to come to his house, and there to spend their mony, for feare of having displeasure. It seemeth to be compounded of. Scot and Ale.

Scutagio habendo, is a writ that lieth for the King or other Lord against the Tenent, that houldeth by knights service, (wherein homage, fealtie, and escuage be conteined) beirg to make a viage to warre against the Scots, or French men. For in those cases, this writ issueth out to all such tenents to serue by themselues, or a sufficient man in their place, or elfe to pay, &c. See Fitzh. nat. br. fol. 82. It is vsed in the Register originall, for him to recouer escuage of others, that hath either by service or fine performed his owne to the King. fo.88. a.

Sealer (Sigillator) is an officer in Chauncerie, whose dutie is to Nnn 3 seal s feale the writs and instruments

Seane fish, anno 1. Iacob. fes. 1. cap. 25. Seane fish, ibidem, seemeth to be that fish which is taken with a very great and long net called a seane.

Second deliverance (Secunda deliberatione) is a writ that lyeth for him who after a returne of catel replecied adjudged to him that distreined them, by reason of a default in the party that replevied, for the repleusing of the same catell againe, vpon securitie put in for the redeliverie of them, if in case the distresse be instiffed. New booke of Entries. verbo, Replevin in second deliverance. fol. 522. col. 2. v. Dyer fol. 41. n. 4.5.

Secta ad Carram, is a writ that lyeth against him, who refufeth to performe his suite either to the Countie, or Court Baron.

Fitz. nat. br. fol. 158.

Setta facienda per illum qui habet eniciam partem, is a writ to compell the heire that hath the elders part of the coherres, to performe seruice for all the coparceners, Regift. origin.f. 177.a.

Secta molendini, is a writ lying against him, that hath vsed to grind at the mille of B. and after goeth to another mille with his corne. Register origin. fol. 153. Fitz. nat. br. fol. 122. But it seemeth by him, that this writ

lyeth especially for the Lord against his franke Tenents, who hold of him by making fuite to his mill, eodem. See the new book of Entries. verbo Secta ad molendinum. By likelihood this feruice is also in France. For Baldninus ad titulum de servitutibus pradiorum, in Institut. hath these words: Bannalis mola nova es barbara seruitutis species est, qua hodie passim rustici coguntur una mola, quam bannalem vocamus, vnoque furno vii ad quastum Domini, qui fortasse praest surisdictioni eius pagi.

Sectam proferre, est testimonium leg alium hominum qui contractui inter eos habito interfuerint prasentes producere. Fleta lib. 2. cap. 63. S. Nullus. And secta is vsed for a witnes. Idem, ib. 4. cap. 16. S. sinal. Habes tamen sectam vnam

vel plures, &c.

Selta ad Insticiam faciendam, is a service due for a transfee to be performed, being by his see bound thereunto. Bracton. lib. 2. cap. 16. num. 6.

Secta vnica tantum facienda propintibus hareditatibus, is a writthat lyeth for that heyre that is diffreined by the Lord to more fuites then one, in respect of the land of divers heires descended vnto him. Register orig. fol. 177. a.

Sectis non faciendis, is a writ, that lyeth for one in wardship

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to be delivered of all suites of Court during his wardship, Register origin. fol. 173. b. See other vie of this writ, eodem, fol. 174. touching women that for their dower ought not to performe suite of Court.

Secunda superoneratione pastura, is a writ that lyeth, where meafurement of pasture hath bene made, and he that first surcharged the common, doth againe surcharge it, the measurement notwithstanding. Register origin. fol. 157. old nat. br. fol. 73.

Secundarie, (secundarius) is the name of an Officer next vnto the chiefe Officer: as the Secundarie of the fine Office: the Secundarie of the fine Office: the Secundarie of the Counter: which is (as I take it) next to the Shyreeue in London in ech of the two Counters. Secundarie of the office of the privile seale. anno 1. Ed. 4. cap. 1. Secundaries of the Pipe two: Secundarie to the Remembrancers, two, which be Officers in the Exchequer. Camden. pag. 113.

Securitatem inueniendi, quod se non dinertat ad partes exteras sine licentia Regis, is a writthat lyeth for the King against any of his subjects, to stay them from going out of his kingdome. The ground whereof is this, that every man is bound to serve and defend the Commonwealth, as

the King shall thinke meet. Fitz. nat. br. fol. 85.

Securitate pacis, is a writ that lyeth for one, who is threatened death or daunger, against him that threateneth, taken out of the Chauncerie to the Shyrecue: whereof the forme and farder vie you may see in the Register origin. fol. 88. b. and Fitzh.

nat. br. fol. 79.

Se defendendo, is a plee for him that is charged with the death of another, faying that he was driven vnto that which he did in his owne defence, the other fo affaulting him, that if he had not done as he did, he must have beene in perill of his owne life. Which daunger ought to be fo great, as that it appeare ineuitable. As Stampford saith in his plees of the Crowne. li. 1. ca. 7. And if he doe iustifie it to be done in his owne defence, yet is he driven to procure his pardon of course from the Lord Chanceler, and forfeiteth his goods to the King. As the faid authour faith in the same place.

Seignior (Dominus) is borowed of the French (feigneur) It fignification, as much as Lord: but particularly it is vsed for the Lord of the fee, or of a maner, euen as (Dominus) or (senior) among the Feudists, is he, who graunteth a a fee or benefite out of his land

Hotoman faith) because having graunted the vse and profite of the land to another: yet the propertie, i. (Dommium) he still reteineth in himselfe. See Hotoman in verbis feudal. verbo Dominus, & Senior. Seignior in grosse, see meth to be he that is Lord, but of no maner, and therefore can keepe no court. Fitz. mat. br. fol. 2. b. See Seignorie.

Seignourage. anno 9. H. 5. stat. 2. cap. 1. seemeth to be a regalitic or prerogative of the king whereby he challengeth allowance of gold and silver brought in the masseto his Exchange, for

covne.

Seignorie (Dominium) is borowed of the French (feioneury. i. ditio, dominatus, imperium, principatus, potentatus.) It fignifieth peculiarly with vs, a Maner, or Lordship. S'eignorie de soke mans. Kitchin fol . 80 . Seignorie in groffe, feemeth to be the title of him that is not Lord by meanes of any maner, but immediatly in his owne person: as Tenure in capite, whereby one holdeth of the King, as of his Crowne, is seignorie in grosse: because it is held of the king for the time being, and not of the King, as of any honour, maner, &c. Kuchin, fal. 206. See Seig-

Seisin (seisma) is borowed of

the French (feeline.i. possessio,) and fo it fignifieth in our common lawe: and to feife, is to take polsession. Primier feisin (prima feisina) is the first possession. Sec Primier feisin, of the French word (feifir) is made a Latine (feifire.) vsed by the Canonists. cap. Cle. ricis. S. Nos igitur non semel de immunitate Ecclesta,num. 6. as also the Civilians. Guedo. Pap. fingula. 865. Seisire est etiam passessionem tradere. Tiraquelles in Tradatu. Le mort sassit le vif. pag. 53. num. 2. Seisin with our common Lawvers, is two fold: feifin in fact, and feifin in lawe. Perkins Doner. 269. 370. Seisin in fact is, when a corporall possession is taken: seifin in lawe, is when fomething is done, which the lawe accompteth a seisin, as an Inrolment. Seisin in lawe, is as much as a right to lands and tenements, though the owner be by wrong disseised of them. Perkins Tenent per le courtesse. 457. 478. Andit seemeth by Ingham, that he who hath had an houres possession quietly taken, hath feifin de droit, & de claime, whereof no man may diffeise him by his owne force or subtiltie, but must bee driven to his action. § . Bref de no. vel diffeisin. Sir Edward Cooke lib. 4. calleth it seism in lame, or seism actuall. fol. 9. a. The Civilians call the one civiler possessionem, the other naturalem.

Seisina habenda quia Rex habuit annum, diem, & vastum, is a writ that lyeth for the delivery of feisin to the Lord, of his land, or tenements, that formerly was convicted of felony, after the King in the right of his prerogatiue hath had the yeare, day, and wast. Reg. orig. fol. 165. a.

Selion ((elio) is borowed of the French (sellon .i. terra elata inter duos (ulcos) in Latine (Porca) in english a Ridge, or land. It fignifieth euen so with vs also: and is of no certaine quantity, but some time conteineth an acre, sometime halfe an acre, fometime more, and sometime lesse. West. parse 2. symbol: titulo. Recovery : fect : 3. Therefore Crompton in his Iurisdictions: fol: 221. Saith, that a selion of land cannot be in demaund, because it is a thing vncertaine,

Seneshall (senescallus) is a French word, but borowed from Germany, being (as Tilius faith) compounded of Schal .i. fervus, aut officialis, and (Gesnid. i.familia) we english it a Sieward. As the high Seneshall, or Steward of England: pl. cor: fol. 152. High Seneshall or Steward, and South Seneshall, or understeward. Kitchin fol. 83: is vnderstood for a steward, or understeward of Courts. Seneshal de l'hostel de Roy, Steward of the Kings houshold. Cromptons Iurisdictions.

fol. 102.

Senescallo & Mareshallo quod non teneant placita de libero tenemento, &c. is a writ directed to the Steward or Marshall of England, inhibiting them to take cognisance of any action in their court, that concerneth either Freehold, dept, or couenant. Register orig. fol. 185. a.

191.6.

Senie, alias, Sene, (sena) is a leafe of a medicinable herbe, that bringeth foorth stalkes of a cubite high, purging phlegmaticke, cholericke, and also melancholicke humors, without great violence. The farder vse whereof you may reade in Gerrards Herbal, lib. 3. cap. 8. This is mentioned among other drugs and spices to be garbled. anno 1.

Iacob. cap. 19.

Septuagesima is a sunday certaine, and alwayes the third fabbath before Shrouefunday, from the which untill the Octaves after Easter, the solemnizing of mariage is by the Canon lawes forbidden. The reason whereof is given, for that all this time vntill Easter, is atime of mourning for the fall of Adam, and for the miserie of man thereof infuing. And Easter with the O-Chaues thereof is a time of Christs glorification, and so of ours also in him, for his, and by him our conquest ouer death and sinne.

0001 And And that therefore all carnall affection ought, during that space, to be wholy mortified in vs. See Quinquagesima, see Ad-

uent, see Rogation weeke.

Sequatur sub suo periculo, is a writ, that lyeth, where a fummons ad warrantizandum is awarded, and the Shyreeue returneth, that he hath nothing, whereby he may be fummoned. For then goeth out an (Alias) and (Pluries.) And if he come not at the (Pluries) then shall go out this writ. old nat. br. fol.

Sequestration (sequestratio) is a separating of a thing in controuersie from the possession of both those that contend for it. And it is double: voluntarie, or necessarie Voluntarie, is that which is vsed by the consent of each partie. Necessarie is that, which the Judge of his authoritie doth, whether the parties will or not. It is vied also for the act of the ordinarie disposing of office, the goods and chatels of one deceased, whose estate no man will meddle with. Dyer. fol. 232. num. 5. 6 fol. 256. num. 8. & fol. 160.nu. 42. & fol. 271. num. 26. As also in the gathering of the fruites of a Benefice voide; to the vse of the next incumbet. anno 28. H. S. cap. 11. Fortesche cap. 50. and in divers other cales.

Sequestro habende, is a writ iudiciall for the diffolung of a fequestration made by the Bishop. at the Kings commaundement. of the fruites of a benefice. thereby to compell the Parson to appeare at the fuite of another : for the Parson vpon his apparence may haue this writ, for the release of the sequestration. Regist.

Indicial. fol. 36. a.

Sergeant ((eruiens) commeth of the French (fergeant. i. fatelles, accensus) aman of the Guard. a kind of fouldier, fo called, because he was sape accitus ad res necessarias in exercitu peragendas. Calepin. M. Skene de ver. sign. verb. Seriant, hath these words: Sergeant commeth from Sergent: que est vox composita de (Serrer) quodest, includere, & gent, quod pro gente, populo vel plebe v surpatur. Itaque Seriandus dicitur, qui ussu magistratus, quemlibet de po pulo reum criminis in carcerem coniicit, seu includit. This word Sergeant is diverfly vsed in our law, and applyed to fundrie offices and callings. First, a Sergeant at lawe, (or of the coyfe) is the highest degree taken in that profession, as a Doctor is in the cuill lawe. And to these, as men best learned, and best experienced of all others, is there one court feuered, to plead in by themselues: (and that is the Court of common-plees) where the common

lawe

lawe of England is most strictly observed. These are made by the Kings mandat, or writ, dire-Eled vnto them, commaunding them vpon a great penaltie, to take vpon them that degree by a day certaine therein affigued. Dyer fol. 72. num. 1. see Counte. And of these one is the Kings Sergeant, being commonly chofen by the King out of the rest, in respect of his great learning, to pleade for him in all his causes: as namely, in causes of treason. pl. cor. lib. 3. cap. prim. And of these there may be more if it so please the King. This is called in other Kingdomes, Aduocatus Regius. Cassan. de consuet. Burgund. pag. 850. With what solemnitie these Sergeants be created, reade Forte Cone, cap. 40. This word Sergeant seemeth to bevsed in Britton for an Officer belonging to the Countie: who, in his first chapter speaking of Appeales made before the Coroner hath these words in effect: And then let the Coroner cause his appeale to be entred, and the names of his fureties. And afterward let commaundement be giuen to the Sergeant of the countrie, where the felonie was committed, that he have the bodie of the persons appealed at the next Countre. And it is probable, that this officer was all one with him, whom Bra-

Eton in his fifth booke cap. 4. num. 2. calleth Servientem Hundredi: of whome he hath these words: Post probationem defalte. faciet serviens Hundreds incontinenti summonitionem. vel affidet partibus diem, si prasentes sint, ad proximum Comitatum, &c. This is like to be the sameOfficer, which in auncient time was called the Bayliffe of the Hundred, who (as is declared in Baylife) had the like authoritie in his Hundred. that the shyrceue had in the Countie, though inferiour to him, and to be controlled by him, as appeareth by divers auncient presidents set downe by Kitchin in his tractat of Returns in Court Hundred, Court Baron, &c. I read also in Bracton lib. 3. tractat: 2. ca. 28. Of the Kings Sergeant, who is like to be also an officer in the County, in these words: speaking of a woman ranished, and what shee ought to doe for the persuite of the Rauisher & sic ire debet ad prapositum Hundredi, & ad sermentem Domini Regis & ad coronatores & ad vicecomite, & ad primu comitatu faciat appellu fuum. And againe eod.li:c: 32. in these words: & si sine secta cognouerit se inde esse latronem coram vicecomite, vel coronatore, vel Cerniente Domini Regis, &c. And againe lib. s. tractat: 2. cap. 4.nu. 8. in these words. Quid & sermens Domini Regis dederit partibus diem 000 2 ad

ad Comitatum, coc. And by Fleta it seemeth, that this terme was generall to the Shyreeue, Coroner, and Bayliffes of Counties, who in his fixth booke. cap: 3. 5. 1. hath these worde: Cum quis igitur senserit dominum suum vel curiam Guam sibi de recto defecisse tunc often 6 boc vice comiti, statim pracipiat ballino Hundredi, vel itineranti. vel alteri seruienti Regis, quod assumptis sibi liberis, & legalibus hominibus de vicinetoillo, ad curiam illius domini, si quem habuerit accedat, &c. And to helpe this probability, I finde that the feward of a maner is termed ferniens manerii. Coke Vol: 4. Copyhould cases. fo. 21. a. Then is there a Sergeant at armes (serviens ad arma) whose office is to attend the person of the King, anno 7 H. 7. ca. 2. to arrest traitours, or men of worth or reckoning, that doe, or are like to contemne messengers of ordinary condition for other causes, and to attend the Lord high Steward of England sitting in Judgement vpon any Traytour, and fuch like: pl: cor. lib. 3. cap. pri: Of these by the statute anno 13. R. 2. cap. 6. there may not be about thirtie in the Realme. This fort is called del espee. In the custumary of Nor. ca. s. which read. There be also some two of these Sergeants of the Parlament, one for the vpper, another for the lower

house, whose office seemeth to ferue for the keeping of the doores, and the execution of fuch commaundements, especially touching the apprehension of any offender, as either house shall thinke good to injoyne them. See Cromptons Iurifdictions, fol. nono. See also Vowels, alias Hookers booke of the order of the Parl. There is one of these that belongeth to the Chauncery, who is also called a Sergeant of the Mace, as the rest may be, beeause they cary Maces by there office. He of the Chauncen ry attendeth the Lord Chaunceler, or Keeper in that court, for the meanes to call all men into that court, is either by this officer or by sub pana. West. pa. 2 sm.tit. Chauncery Sect. 17. Then be there fergeants that be the chiefe officers in their seuerall functions within the kings houshould, which be chiefe in their places, of which fort you may read many named in the statute anno 22. H. 8. ca. 12. There is also a more base kinde of sergeant of the Mace, whereof there is a troupe in the City of London, and other townes corporate, that serue the Major or other head officer, both for melniall attendance, and mater of Iustice. Kitchin fol. 143. And these are called Servientes adclaua. New book of Entries. ver. scire facias: facias: in Mainperners. f. 538.c. 3. Sergeantie) Seriantia) commeth of the French (Sergeant. i. (atelles) & fignifieth in ourcomo law, a feruice due to the King frohis tenet holding by fuch fernice. For this service cannot be due to any L. from his Tenet. but to the King onely . And this is either grand, or petit, as you shall find at large set downe in Chivalrie. Of this also you may read Bra 1.2.c. 16.6 c.37.n. 5.4.8 Brit .. c. 66.n. 1.6 2. See Seruice. M. Skene de ver. signifi. calleth this Sergeanterie, defining and dividing itas we doe in England.

Servientibus, are certaine writs touching servants, and their Masters violating the statutes made against their abuses. which see in the Regist. orig. fol.

189.6 190.6 191.

Service (servitium) though it haue a generall fignification of dutie toward them vnto whome we owe the performance of any corporall labour, or function: yet more especially in our common lawe, it is vied for that fernice, which the tenent by reason of his see, oweth vnto his Lord. And so doth it fignifie among the Feudists also For Hotoman thus defineth it. Servitium est munus obsequii clientelaris.verbo Servitium. De verbis feudal. or rather declareth it lo to be defined.lib.fend. 2. titulo

51.5. 8. It is sometime called seruage, as anno.i.R. 2. cap. 6. This feruice is either militarie. and noble, commonly called Knights service: or clownishe & base, commonly called socage. of both which reade Chinalry, as also socage. and Bratton lib. 2. cap. 16. Seruice is divided by Britton into personall, and reall. cap. 66. where he maketh wards, mariags, homage, Releifs, and fuch like, to be reall feruices:perfonall, I imagine, may those be called, that are to be performed by the person of the Tenent, as to follow his Lord into warre, &c. The Civilians divide munera in this fort, either in personalia, or patrimonalia. Then Bracton vbi supra num. 7. distributeth sernitium in intrinsecum, & extrin secum alias forinsecum. & medium. Seruitium intrinsecu is that, which is due to the capitall Lord of themaner, Forinfecum is that which is due to the King, and not to the capitall Lord, but when he goeth in his owne person to serue : or when he hath fatisfied the king for all feruices whatfoeuer. And againe in the same place he saith, it is called Fornisecum, quia fit, & capitur foris, sive extra seruitium, quod fit Domino capitali. fee Forein seruice. Of this reade him vbi supra, more at large, and Fleta,lib. 2. ca. 14. S. Continetur.

Servitia que nec intrinseca nec forinseca sunt, Bract, handleth in the Same chap, n. 8. saving thus: funt etiam quadam consuetudines, qua nec dicuntur intrinseca, nec forinsece: sed sunt quedam servitia concomitantia ficut servitia regalia, & militaria, es etiam homagia: es ideo in chartis non sunt exprimenda. Quia si homagium precesserit. & regale seruitium, seguitur exinde quod ad capitalem Dominum pertinebit Relevium, & custodia, & maritagium: sine seruitium sit militare, vel seriantia propter exercitum, &c. Here then Reliefe, Ward, and Mariage, be those seruices, which he calleth, nec intrinseca, nec forinseca, sed concomitantia. Seruice is also devided into frank service, and base, or villenous service: the one Bra-Eton, calleth (liberum servitium) the other (feruitium villanum)or (villenagium) lib. 2. cap. 8. nu. pre, This villenagium is Socage in base tenure, as to dung the Lords ground, to ferue him fo many daies in haruest, to plash his hedges,&c.or els copy hould. All other services seeme to be frank. Service confisteth some in seisance, some in render. Perkins Reservations. 696. Service seemeth also to be divided into continuall, otherwise annuall, and cafuall, or accidentall. An example of the former is the feifin of rent, and of the other, feifin of reliefe. Sir Ed. Cookes reports lib.4. Bevils case fol. 9.a. see Copy hould: See Socage. See Ayde.

service secular.anno t.Ed.4 ca.

1. which may be contrary to spirituall, viz. the service divine commaunded to spiritual men

by their founders.

Servitours of bils, seeme to be such servitours or messengers of the marishall belonging to the kings bench, as were sent abroad with bils, or writs to summon men to that court, being now more ordinarily called Tip. stafs.

Servitis acquietandis, is a writ Iudiciall, that lieth for one diffreined for feruices by Iohn, which oweth and performeth to Robert, for the acquitall of fuch feruices. Register Iudicial.

fol. 27.a. & 36.b.

Sessions (Sessiones) fignifieth in our common lawe a fitting of Iustices in court voon their commission: as the sessions of over, and terminer pl.cor. fol. 67. Quarter fessions, otherwise called generall sessions. anno 5. Elizab. cap. 4. or open fessions, ibidem. Opposite wherevnto are especiall, otherwise called privie fessions, which are procured vpon som e speciall occasion, for the more speedie expedition of Iustice in some cause. Cromptons Instice of peace. fol. 110. what things

things be inquirable in generall sessions: see Cromptons Instice of peace, fol. 109. Petit sessions, or that ute sessions are kept by the high Constable of every Hundred, for the placing of servants, anno s. Eli. cap. quart. in sine.

Seffour.anno 25. Ed.3. cap. 6. feemeth to fignifie fo much as affesting or rating of wages at

this day,

Set clothes, anno. 27. Henric. 8.

cap.13.

Setwell (Valeriana) is a medicinall herb, the nature and divers kinds whereof you have in Gerards berball, lib. 2. cap. 424. The roote of this is mentioned among drugs to be garbled, anno. 1. Ia.

cap. 19.

Severance, is the fingling of two or more, that lovne in one writ, or are joyned in one writ. For example, if two iowne in a writ de libertate probanda, and the one afterward be nonfuite, here seuerance is permitted; fo that, notwithstanding the non-suite of the one, the other may seuerally proceede. Fitzh. nat. br. fol. 78. I.K. Of this sce Brooke, titulo severance, & summons.fol. 238. For it is harder to knowe in what cases feuerace is permitted, then what icis. There is also seuerace of the tenents in an Affise, when as one or two, or more diffeifours appeareth upon the writ, and

not the other. New booke of Entries, fo. 81.col.4.& seuerance in attaints.eod.fol.95.col. 2. And seuerance in debt. verbo.debt.fol. 220.col.1. see the saide booke, verbo seuerance.

Severall taile (tallium separatum) is that whereby land is giuen and entayled seuerally to two. For example, land is giuen to two men, and their wines. and to the heires of their bodies begotten: the Donees haue joynt estate for their two lines, and yet they haue seuerall inheritance: because the issue of the one shall have his moyery, and the issue of the other, the other moyetie, Kitchin ibidem.

Severall tenancie (tenura separalis) is a plee, or exception taken to a writ, that is laide against two as ioynt, which are seuerall, Brooke titulo, Severall te-

nancie, fol. 237.

Sewarth wonen, an. 35. El.c. 10.

Sewar, hath two fignifications with vs, one applied to him that issueth or commeth in before the meate of the King, or other great personage, and placeth is vponthetable: the other to such passages, or gutters as carie water into the sea, or river, in lawyers Latine called Sewera, an.

6.H.6.c. 5. which is also vsed in common speach for commissioners authorised vnder the broad seale to see draines, and ditches

ditches well kept, and maintained in the marish and fenne countries, for the better conuevance of the water into the sea, and the preserving of the grasse for feede of catell. stat. anno 6.H.6. cap. 5. It is probable to bring this word from the French(iffir) or (iffue) as if we should call them (Muers) because they give iffue or passage to the water, &c. And the latine word (suera) sometime vsed in these commissions for these draines. is a competent reason of this conjecture : see Eitzh.nat.br. in over andterminer. Yet I finde in an old French booke conteining the officers of the King of Englands court as it was aunciently gouerned, that he whom in court we now call Sewer, was called (Affeour) which may seeme to come from the French (Affeour) wherein his office in fetting downe the meat ypon the table is well expressed. And Sewer as it fignifieth an officer, is by Fleta latined Affesfor: li. 2. ca. 15. All which argueth that the descent of this word is from the French (Affeoir) as fignifiing a disposing or placing of any thing, or (as we fay in English) an affesting of any person toward the performance of a dutie.

Sex agesima. See Septuagesimu. Shanckes See Furre. Shares. See Flotzon.

Shewing, is to be quit of attachment in any court, and before whom focuer in plaints shewed and not avowed. Newe exposition of law termes. verbo, Shewing. See Scanage.

Shipper. anno 1. Isc. fef. 1. ca. 33. is a Dutch word, fignifying

the Master of the ship.

Shire. (Comitatus, Shira) is a Saxon word, fignifying Satrapian, of the verbe (scyran. 1. partiri.) Lamb, in his explication of Saxon words, verbo Centuria. The word is in vie fo rife, that euery child vnderstandeth it. Who first thus divided this land into shires, appeareth by M. Camdens Britan. pa. 102. in these words. Nec dum tamen florente Heptarchia, Anglia ita in Comitatus diuisa, (sic enim vulgo vocant) sed postea, cum Colus Aluredus rerum potiretur. Vt enim Germans maiores nostri, teste Tacito, iura per pagos vicosque reddebant, & centeniex plebe comites adrem administrandam adiungebantur: sic ille (vt Ingulfi Croulandensis verbis vtar) primus Angliam in Comstatus druisit, quod indigena rapinas committerent exemplo & colore Danorum. Comtatus porro in Centurias. i. Hundreds, & Decimas. i. Tythings, distribus fecit: precepitg, vt omnis indigena in aligna effet Centuria, & Decima. Prafectos etiam prouinciarum. umciarum, qui antea Vicedomini vocabantur in duo officia divisit viz Indices, nunc Insticiarios: ch Vicecomites, qui adhuc idem nomen vetinent. See the reft. 19 345 Miles

Shreeue (Vicecomes) is compounded of these saxon words (Scyre.i. fatrapia) and (Reue .i. prafectius) and accordingly he is the cheife officer under the King of his Shyre, or County. See Ferme in Lacies nobility: pag. 12. M. Camden: pag. 104. Thus describeth his office: Singulis verò annis, nobilis aliquis ex incolis traficitur, quem vicecomitem, quasi vicarium comitis, & noftra lingua Shiref i. comitatus prapofitum vocamus: qui etiam comitatus, vel provincia Quaftor rette dici potest Eius enim est publicas pecunias prouincia sue conquirere, mulet as irrogatas, vel pignoribus ablatis colligere, & arario inferre, Indicious pra-Roadelle, & corum mandataexequi, duodecim viros cogere, qui in causis de facto cognoscunt, & ad Indices referent (Indices enim apad nos, iuris solium, non facti sunt Indices) condemnatos ad supplicium ducere, & in minoribus litibus cogno!cere. In majoribus autemius dicunt Infliciarii, quos stinerantes ad Affi-Sas vocant, qui quotannis hos Comitatus bis adeunt, vt de causis cognoscant, & de incarceratis sen. tentiam ferant. Henricus secundus hos itinerantes instituit, vel potius resticuit. He (vt inquit Matheus

Parisiensis) consilio filis sui er Eniscoporum constituit Insticiarios ter lex partes regni, in qualibet parte tres, qui iurarent qued enilibet ius sum conservarent illasum. Of the antiquitie and authoritie of this of ficer, reade Sir Edward Cookes Reports. lib. 4. Mittons cafe. The maner of appointing these Shyreeues in Henry the fixt his dayes, see in Fortescue. cap. 24. fol. 53. b. The name Vicecomes commeth from the Normans, as Shyreeue commeth from the Saxons. For in the fifth Chapter of the Grand Custumarie, you haue (viconte) which the Latine Interpreter turneth (vicecomitem) whose office you shall find in that Chapter to be very like vnto ours. The forme of the Shyrecues oath fee in the Register origin. fol. 301. b. Of this reade M. Skene de verber. signif. verbo Shyreene: where he largely describeth the office of the Shyreeue in Scotland in a discourse woorth the reading.

Shyreeue weke of Winchester and of Esex. anno 21. R. 2. cap. 10. State of proceedes in the culty by

Shire Clerke, scemeth to bee the Vndershyrecue. anno 11.H. 7. cap 19 . It is vied fometime for a Clerk in the County court, deputie to the Vndershyreeue. See Sir Edward Cookes 41 booke of Reports in Mittons cafe.

Shire moore, fee Turne.

Shorling, and Morling seeme to be words to distinguish fels of sheepe: as if shorling should signific the fels after the sleeces be shorne off the sheepes backe, and morling the fels sleame off after they be killed or dye alone. anno 3. Ed. 4. cap. prim. & anno 4. csusdem, cap. 3. & anno 12. cius. cap. 5. & anno 14. eiusdem, cap. 3.

Shot commeth of the Saxon word, sceate, signifying pecuniam aut vestigal. Lamberds explicatio of saxon words, verbo Primi-

tia.

Shrof metall.

Sicut aliâs, is a writ sent out in the second place, whereas the sirst sped not. Coke libro quart. folio 55. b. It is so called of these words expressed in it. For example. Iacobus dei gratia, &c. vicecomiti Kan: salutem: Pracipimus tibi (sicut aliâs pracepimus) quod non omittas propter aliquam libertatem in Ballma tua, quin eam ingrediaris, & capias. A. B. de C. in comitatu tuo Labourer, &c. as in the first capia. Lamb: in his tractat of processes in the end of his Einenarcha.

Sidemen alias Quest men, be those that are yearely chosen according to the custome of enery parish, to assist the church wardens in the inquiry and presenting such offenders to the Ordinary, as are punishable in the Court Cristian.

Significanie, is the writ de excommunicate capiendo, which iffueth out of the Chauncery vpon a certificate given by an Ordinary of a man that standeth obstinately excommunicate by the space of fourty daies, for the laying him vp in prison without bayle, or mainprise, vntill he submit himselfe to the authority of the church. And it is fo called, because of the word (fignificauit) mentioned in the writ (De excomunicato capiendo) which have relation to the certificate, fent into the Chauncery by the Ecclefiafticall Iudge. There is also another writ in the Register orig. of this name, fo: 7. a. directed to the Iuflices of the bench, willing them to flay any fuite depending betweene fuch and fuch, by reason of any excommunication alledged against the plaintiffe: because the sentence of the Ordinarie that did excommunicate him, is appealed from, and the appeale yet hangeth undecided. Which fee: and sec Fitz. nat. br. De excommuni. cato capiendo. fol. 62. N. but especially 66. A. where you may find writs of this name in other cafes.

Sine assensu capituli, is a writ that lyeth in case where a Deane, Bishop, Prebendarie, Abbot, Prior or Master of Hospitall, alieneth

the land held in the right of his house, without the consent of the Chapter, Couent, or Fraternitie. For in this case his successor shall have this writ. Fitzh.

nat. br. fol. 195.

Si non omnes, is a writ of affociation, whereby if all in comission cannot meete at the day
assigned, it is permitted, that
two or more of them may
sinish the businesse. See Association. And Fizz. nat. br. fol. 185.

6 111. C. and Register origin.
fol. 202. 206. 6 124.

Si recognoscano, is a writthat lyeth for a Creditour against his depter for money numbred, that hath before the shyreeue in the Countie court. acknowledged himselfe to owe vnto his creditor fuch a fumme received of him in numeratis pecunis. The forme of the writ is this: Rex Vicecomiti salutem. Prac. tibi quod si A. recognoscat le debere R. 40. Solid. fine viteriori dilatione, tunc ipsum distringas ad pradictum debitum eidens R. sine dilatione reddendum. Teste, &c. Old nat. br. fol. 68.

Skare. anno 4. Ed. 4. cap. 1.

Skyvinage. anno 27. H. 6. cap. 2. a proper name, fignifying the precines of Caleis.

Sinse (exclusa) is a frameto keepe, or let waterout of a grounde.

Sec (Seca) is a word figni-

fiing a power, or libertie of Iurisdiction, as appeareth by these words out of Bracton. Sunt quidam Barones et alii libertatem habentes, fc: foc, & fac, Tol & Thean, Infangthefe, & Vtfangthefe. & isti possunt indicare in Caria sua, eum qui inuentus fuerit infra libertatem suam seisitus de aliquo latrosinio manifesto. & li. 3. tractat. 2. cap. 8. In the lawes of King Edward fet out by M.Lamberd, fol. 132. you have these words: Socha est quod si aliquis quarit aliquid in terra sua, etiam furtum, sua est Insticia, sinuentum fuerit, an non. Saxon in the description of Britany, eap. 11. faith, that Sock is a fuite of Court and that thereof commeth Soken. But the fignification of the word (as I have bene credibly informed) is as much as Inquisitio which we in moderne English, terme (seeking) Of this (Sok) Skene de verborum signific. speaketh to this effect. Sok is an ould word vsed in Charters and feofments, which in fundry old bookes conteining the municipiall law of this Realme, is called Setta de hominibus suis in curia, secundum consuetudinem Regni. So after my opinion he that is infeoffed with Sch. (which now we call Sort (but we in England Suite) hath power to hould courts within his owne Baronie, in which, homines fur Ppp 2 should!

should give Sort . Thus farre M. Skene. Of this Fleta hath these words . In buinsmodi vero maneriis (speaking of the Kings maners) erant olim liberi homines libere tenentes, quorum quidam cum per petentiores e tenementis suis eiets fuerant & eadem postmodum in villenagium tenenda resumpserut: e'y quia buinsmodi tenentes cultores Regis esse dinoscuntur, eis provisa fuit quies ne seitas facerent ad comitatus vel bundredos, vel ad aliquas inquisitiones, assisas vel suratas, nisi in manerio tantum, dum tames proterra quorum congregationem tung focam appellarunt. & hincest qued Secmanni hodie dicuntier esse. A soco enim derivantur, quorum tenementa sunt villenagium domini privilegiatum, & ideo dicuntur gleba ascriptitii, eo quod ab huiusmodi glebis amoneri non deberent gram din so'uerent debitas pensiones: nec compeli poterunt ad buinsmodi tenementa tenenda, contra suas voluntates, eo quod corpora sua sunt libera. Nec obstabit longa seruitatis possessio ad libertate extinguendam, quamuis ad merchetum Sangunis sui compulsus fuerit quis pro tenemento reddendo. Nulla enim servitus ratione pra-(criptionis temporis potest liberum sangunë in seruitute reducere, non magis quam liberum tenementum potest servum in libertatem, oc. By whose words it appeareth, that Soca is nothing elfe, but

the meeting or affembly of these kinde of tenents in any place within the maner or fibertie: wherefore he that hath foc may feeme to have fuch a maner, such tenents, and such a libertie belonging to his maner and tenents, as is here described. Here you see diversities of opinions touching this word, one faying that it is a power or libertie to feeke after theeues & stollen goods within a maner or fee, and to doe inflice voon fuch inquisition. others that it is a libertie onely to have furters to his court. other (as Fleta, that it conteineth both the former fignifications, and furder that it is taken for the company of tenents which live within fuch a liberty; and are exempled from those common feruices of the Prince and country wherunto subjects are ordinarily tied. This kinde of liberty is in divers places et this day in England, and commonly knowne by the name of foke or foken. See Soke and Sockmans.

Soccage (foccagium) commeth of the French (Soc. i. vomer, a plow thate or coulter). It fignifieth in our common lawe a tenure of lands by or for certaine inferiour, or husbandly feruices to be performed to the Lord of the fee. See Inflients of

common lane. 21. As I have shewed in (Chivalrie), all services due for land, is either knights feruice, or focage. So then, whatfocuer is not knights seruice, is foccage: Bratton in his 2. booke cap. 35. num. primo. describeth it thus. Dici poterit foccagium à Socco, & inde tenentes qui tenent in Sockagie, Sockmanni dici poterunt, eo quod deputati sunt, ve videtur tantummodo ad cultur and, & quorum custodia, & maritagia ad propinquieres parentes iure sanguinis pertinebit. Et si aliquando inde de facto capiatur homagium, quod pluries contingit, non tamen habebit propter koc Dominus capitalis custodiam, & maritagium. Quia non semper seguitur homagium licet aliquando sequatur. M. Skene de verborum significatione. verb. Sockmannia, faith, that Sockage is a kinde of holding of lands, when a man is infeoffed freely without any feruice, ward, releife, or mariage, and pareth to his Lord fuch dutie, as is called petit fergeantie, or when one holdeth land in the name of burgage, or in libera elemozina, or otherwise in blenche ferme, fine nomine alba firme, & opponitur militi, quitenet per seruitium militare. Out of the place aboue named in Bratton, you may finde a dinision of Soccage, wherby it is termed either Soccagiam liberum, or villa-

num. frank or free Soccage, and base, otherwise called villenage. The former is there thus defined. Soccagium liberum est, vbi fie seruitium in denariis Dominis capitalibus, & nibil inde omnino datur ad scutum & servitium Regis. Where I gather that to be free foccage which paieth a certaine fumme of money to the cheife Lord in regard of some tillage, or such like, and not of any Sergeantie, or eschuage. And to this effect he writeth also, lib. 2.cap. 16. nu.9. &c. unde si tantum in denariis & fine souragio vel seriantiis, vel fi ad duo teneatur sub dissunctione so: adcertam rem dandam pro omni servitio, vel aliquam summam in denaris, id tenementum potest deci Soccagium: si autem superaddus Scutagium, aut servitum regale, licet ad vnum obulum vel feriantiam, illud poterit dici feudum militare. This free Soccage, is also called common Socage, anno 37. H. 8. cap 20. Soccage in base tenure, or villanum Soccagium, is divided againe in villanum Soccagium, & purum villenagium: Villanum Soccapium est illud, de quo fie certum fenuitium, idque ratione suitenemeti, non persona sua. Purum villenagium est illud, in quo prastatur servitium incertum, & indeterminatum, whi sciri non poterit ve pere quale servitium fieri debet mane. viz. vbi quis facere tenetur Ppp 3

quicquid ei preceptum fuerit. Bra-Eton lib. 2. cap. 8. num. 2. The old. nat. br. fol. 94. maketh three parts of this division, viz. Soccage of freetenure, Soccage of auncient tenure and foccage of base tenure. soccage of free tenure is (as the booke saith) where a man holdeth by free seruice of 12. pence by yeare, for all maner of services or by other feruices yearely. Soccage of auncient tenure is of land of auncient Demesn, where no writ originall shall be siewed, but the writ of Right, that is called secundum consuetudinem manerii. Soccage of base tenure is of those that hould in Soccage, and may have none other writ, but the Monstraverunt: and fuch Sockmen hould not by certaine Seruice. And for that are they not free Sockmen. Then againe Soccage is divided into foccage in cheife, and common foccage. Soccage in cheife or in capite, is that which holdeth of the King, as of his Crowne. Frerog. fol. 41. Common Soccage is that, which holdeth of any other capitall Lord, or of the King by reason of some honour or maner. Ibidem. Burgage is also a kinde of Soccage, See Burgage.

Sockmans (Sockmanni) are fuch tenents as hould their lands, and tenements by Soccage tenure. And accordingly as you have 3. kinds of Soccage, soe be there 3. forts of sockmans. as sockmans of frank tenure. Katchin, fol. 81, sockmans of anneient Demessen ould nat.br. fol. 11. and Sockmans of base tenure. Kitchin vbi supra. But the tenents in auncient Demessen, seeme most properly to be called Sockmans, Fitzh.na.br.f.14.B. Brit.c.66.n.2.

Soke, anno 32. H.8. cap. 15.6 cap. 29. Of this Fleta faith thus Soke significat libertatem curia tenentium. quam socam appellamus. lib. 1. cap. 47. S. Soke. See Roger Houeden, parte poster suorum annalium. fol. 345. b. and See Soc.

Soken (Soca) see Soc. and Hamsoken. Soken is latined soca Register originall, fol. 1.a.

Sokerene seemeth to be the Lords rent-gatherer in the Soke, or Soken, Fleta, lib. 2. cap. 55. in

principio.

Sole tenent (Solustenens) is he or shee which holdeth onely in his or her owne right without any other ioyned. For example, if a man and his wife hould land for their lines, the remainder to their son: here the man dying, the Lord shall not have Heriot, because he dieth not sole tenent. Kitchin, fol. 134.

Solicitour (Solicitator) commeth of the French (Soliciteur)
It fignifieth in our commo law,
a man imploied to folow fuites

depen-

ding in law, for the beter remembrance and more ease of Atturnies, who commonly are so full of clients and busines, that they cannot so often attend the seriants and counsellers as the case may require.

Solet & Debet, See Debet &

Solet.

Solidata terra. See Farding deale of land.

Sollace, anno 43. Elizabeth.

cap. 10.

Sommons, alias summons (summonstio) commeth of the French (semondre .i. vecare) It signifieth in our common law, as much as (vocatio in ius) or (citatio) among the Civilians. And thence is our word (former) which in French is (semonneur .i. vocator, monitor) The Custumary of Normandse for our (fommons hath (femonse) sa. 61. Summons of the Exchequer anno 3. Ed. pri: ca. 19. & anno 10. einsdem, cap. 9. How summons is divided, and what circumftances it hath to be obserued. See Fleta, lib. 6. cap. 6. 7.

Solutione feods militis Parlamenti, and solutione feods Burgen. Parlamenti, be writs whereby Knights of the Parlament may recouer their allowance, if it be denyed anno 35. H. S. ca. 11.

Sontage. Stow. pag. 284. is a talke of fourty shillings laid vp-on enery Knights fee.

Sorting Kerseies . 3. Iacobi: ca:

16.

Sothale, is a kinde of intertainment made by Bayliffes to those of their Hundreds for their gaine. Which sometime is called Filetale. Of this Bratton lib. 3. tratta: 2. cap. pri. hath these words: De Ballinis, qui faciunt ceruisias suas. quas quandog vocant (sothale) quandog (Filetale) vt pecunias extorqueant ab eis qui segunt tur Hundreda sua, & Balmas suas, &c. I thinke this should rather be written Scotale. See Scotale.

Southvicont (Subvicecomes) is the vnder Shyreeue. Cromptone

Inrisdict: fol: 5.

Sowne, is a verb neuter, properly belonging to the Exchequer, as a word of their art, fignifiing so much, as to be leuiable, or possible to be gathered or collected. For example, estreats that sowne not, are such as the Shyreeue by his industry cannot get, and estreats that sowne, are such as he can gather, anno 4. H. 5. ca. 2.

Speaker of the Parlament, is an officer in that high Court, that is as it were the common mouth of the rest and as that honourable assembly consisteth of two houses, one called the higher or vpper house, consisting of the King, the nobility, and Kings councell, especially appointed for the same, the other termed the lower or commonhouse,

containing the Knights of the Shires, the citizens, barons of the cinque ports, and the burgefes of borough townes : fo be there also two speakers, one termed the Lord speaker of the higher house, who is most commonly the Lord Chaunceler of England, or Lord Keeper of the great seale : the other is called the speaker of the lower house. And the duties of these two you have perticularly described in M. Vowels, alias Hookers booke, intituled The order and vlage of keeping the Parlament.

Speciall mater in euidence. See Generall issue. And Brooke, inulo Generall issue, and speciall euidence.

Spiritualties of a Bishop (Pirituales Episcopi) be those profits which he receiveth, as he is a Bishop, and not as he is a Baron of the Parlament. Seawnf. pl. cor. fol. 132. The particulars of these may be the duties of his Visitation, his benefite growing from ordering and instituting Priests, prestation money, that subsidium charitatiuum, which vppon reasonable cause he may require of his Clergie. Iohannes Gregorius de Beneficiis.cap.6.num. o, and the Benefite of his Inriscition. Ioachimus Stephanus de Istrifd. lib. 4. cap. 14. num, 14. for these reckoneth exactionem Cathedratici, quartam Decimarum, & mortuariorum & oblationum pensitationem, subsidium charitatiuum, celebrationem synodi, collationem viatici vel commeatus, cum Episcopus Romam prosiciscitur, ius hospitii, Litaniam & Processionem.

Spikenard (spica nardi, vel nardus) is a medicinall herbe, whereof you may for your farder instruction reade Gerards Herball. lib. 2. cap. 425. The fruite or care of this (for it bringeth forth an eare like Lauender) is a drugge garbleable, anno 1. Iacob. cap. 19.

Spoliation (poliatio) is a writ, that lyeth for an incumbent, against another incumbent, in case where the right of patronage commeth not in debate. As if a Parson bee made a Bishop, and hath dispensation to keepe his Rectorie, and afterward the patron present another to the Church, which is instituted and inducted. The Bishop shall have against this incumbent a writ of spoliation in Court Christian. Fitz. nat. br. fol. 36. see Benevolence.

Squalley. anno 43. Elizab. cap.

Squyers. See Esquires.

Stablestand, is one of the source Euidences, or presumptions whereby a man is convinced to intend the stealing of the Kings Deere in the Forest.

Man-

Manwood. parte 2 of his Forest lawes. cap. 18. num. 9. the other three be these Dogdrawe, Backbeare, Bloudie-hand And this Stablestand, is when a man is found at his standing in the Forest, with a Crosse bowe bent, ready to shoote at any Deere, or with a long bowe, or else standing close by a tree with Greyhounds in a lease, ready to slippe, Idem, eodem.

Stalkers, a kind of net anno 13 R. 2. stat. 1. cap. 20. & anno 17.

eiusdem, cap. 9.

Stallage (stallagium) commeth of the French (Estaller. i. merces exponere, expedire, explicare.) It signifieth in our common law, money payed for pitching of stalles in Faire or Market. See Scavage. This in Scotland is called stallange. Skene de verbor. signif. verbo Stallangiatores. And among the Romaines it was termed (Siliquaticum) à siliqua, primo & minimo omnium pondere apud illam nationem.

Stannaries (flannaria) commeth of the Latine (flannam.)i. tynne, fignifying the Mines and workes touching the getting, and purifying of this mettall in Cornewall, and other places. Of this read Camden. Britan.pa. 119. The liberties of the flannarie men graunted by Ed. 1. before they were abridged by the flatute, anno 50.Ed. 3. see in

Plowden. casu Mines. fol. 327.

Staple (Stapulum) fignifieth this or that towne, or citie, whether the Merchants of England by common order, or commandement, did carie their wolles. wol-fels, cloathes, lead, and tinne, and fuch like commodiries of our land for the vtterance of them by the great. The word may probably be interpreted two waves: one taking it from (faple) which in the Saxon or old English language, fignifieth the stay or hold of any thing. Lamb. in his duties of Constables. num. 4. because the place is certaine, and setled: and againe, from the French (estape. i. forum vinavium) because to those places, whether our English Merchants brought their commodities, the French would also meete them with theirs. which most of all consisterh in wines : but I thinke this latter thetruer because I finde in the Mirrour of the world written in French these words. A Calais y anoit Estape de le laine, &c. Which is as much to fay, as the staple for wols, &c. You may read of many places appointed forthis staple in the statutes of the land, according as the Prince by his Councell thought good to alter them, from the second yeare of Ed: 3. cap. 9. to the fifth of Edv:

Qqq 1 th

the fixth. cap: 7. what officers the staples had belonging to them you may see anno 27. Ed. 3.

Aat. 2. CA. 21.

Starre chamber (Camera stellata) is a Chamber at Westminster fo called (as Sir Tho. Smith coniectureth lib. 2. cap. 4.) either because it is full of windowes, or because at the first all the roofe thereof was decked with Images of guilded starres. And the later reason I take to be the trewer. because anno 25. H. 8. ca. 1. It is written the Sterred Chamber. In this Chamber enery weeke twice during the terme, and the very next day after terme, is there a Court held by the Lord Chaunceler or Keeper, and other honourable personages of the Realme. This Court seemeth to have taken beginning from the statute anno 3. H: 7. ca. pri. Whereby it is ordained, that the Lord Chaunceler and Treasurer of England for the time being, and the Keeper of the Kings priny feale, or two of them, calling to them a Bishop, and a temporall Lord of the Kingsmost honourable Councell, and the two cheife Iustices of the Kings Bench, and common place, for the time being, or other two Justices in their abfence, should have power to call before them, and punish such misdoers, as there be mentio-

ned. The faults that they punish. be Routes, Riots, Forgeries, Maintenances, Embraceries, Periories. and such other Misdemeanures as are not sufficiently prouided for by the common law. It appeareth both by Sir Tho: Smith lib. 2. de Rep: Anglo: cap. 4. and by experience also, that at this day. the whole number of the Princes most honourable priuv Councell, and fuch other Barons spirituall, or temporall as be called thither by the Prince, haue place in this Court with those aboue named. Of this Court thus speaketh M. Gwin in the preface to his readings: It appeareth in our bookes of the termes of K. Edward 4. And of the report of cases hapning vnder the vsurpation of Richard the third that fometime the King and his Councell, and fometime the Lord Chaunceler, and other great personages, did vse to sit iudicially in the place then and yet called the Starre Chamber. But for as much as be. like that affembly was not ordinary, therefore the next Kings, Henry the senenth, and his sonne. H. 8. tooke order by two seucrall lawes. viz. 3. H. 7. ca. pri. & 21. H. S. ca. 2. That the Chaunceler affisted with others there named, should have power to heare complaints against Retainours, Embraceours, misdemenures of officers, and such other offences, which through the power and countenance of such as do commit them, do list vp the head aboue other faults: and for the which inferiour Iudges are not so meete to give correction. And because that place was before dedicated to the like service, it hath bene ever since also accordingly vesed. Touching the officers belonging to this Court, see Cam-

den. pag. 112. & 113.

Statute, (fatutum) hath diuers fignifications in our common lawe. First, it signifieth a Decree or act of Parlament, made by the Prince and three estates, which is the bodie of the whole Realme. And though it borow the name from that kind of Decree, which those cities, that were vnder the Romaine Empire, made for the particular gouernment of themfelues, ouer and about the vniuerfall or common lawe of the Empire: yet in nature it commeth nearest to that which the Romaines called (legem) for that, as that was made by the whole people noble and ignoble: so this is ordeined by those, that represent the whole number, both of prince, and subjects, one and other, through the whole kingdome. The difference neuerthelesse was

this, that Lex was offered to the confideration of the people by the Magistrate of the Senate, or Confull: but the bils or suggestions whence our statutes spring, are offered by any of either house, and so either passed orreiected. In this signification a statute is either generall or specials. Coke lib. 4. Hollands case, fol. 76. a.

Statute, in another signification is a short speach taken for a bond: as statute Marchant.or statute staple.anno 5. H.4. cap. 12. The reason of which name is. because these bonds are made according to the forme of flatuts expressely, and particularly prouided for the same; which direct both before what perfons, and in what maner they ought to be made. West. parte pri. symbol.li. 2. fect. 151. where he defineth a flature Merchant thus. A statute Merchant is a bond acknowledged before one of the Clerks of the statutes

Merchant, and Major or chiefe

Warden of the citie of London, or two Merchants of the faid

citie for that purpose affigned,

or before the Major, cheise Warden, or Master of other Ci-

ties or good townes, or other

fufficient men for that purpose

appointed, sealed with the scale of the Depter, and of the King, which is of two peeces, the Qqq 2 grea-

greater is keept by the saide Maior, cheife Warden, & c. and the leffer peece thereof by the faide Clerks. The form of which bond, you may fee in Fleta.lib. 2. c.64. 5. 2. to be fuch; Noverme vniuersi me. N. de tali comitatu teneri. N. in 10. marcis solwendis eidem ad festum Pent. anno regni Regis, &c. & nisi fecero, concedo and currant super me & haredes meos districtio, & pæna provisa in Statuto domini Regis edito apud Westm. Datum London, tali die, an. Supra dicto. The fee for the same seale, is for statutes knowledged in Faires. for enery pound an halfepeuy, and out of faires a farding. The execution vpon statute Merchant, is first to take the bodie of the Deptor, if he be lay, and can be found: if otherwise, then vpon his lands, and goods: The bound is founded vpon the statute, anno 12.Ed. tri. fatut. 4. Of this also as of the statute Staple, see the newe booke of Entries. verbo. Statut Merchant . and reade in Fleta vbi supra, more touching this mater worth the reading.

Satute staple (to vie the very words of M. West.) is either properly so called, or improperly, A statute staple properly so called is a bond of Record knowledged before the Maior of the Staple, in the presence of one of the two

constables of the same staple, for which seale the fee is of enery pound, if the fumme exceed not a 100. poud, an halfepeny, & if it exceed an 100.pond, of cuery pound a farding. And by yertue of such statute Scaple, the Creditor may forthwith have execution of the body, lands & goods of the Depter. and this is founded vpon the statute anno 27. Ed. 3. cap. 9. A Statute Staple improper, is aboud of Record, founded voon the statute anno 23. H. S. cap. 6. of the nature of a proper statute staple, as touching the force, and execution thereof, and knowledged before one of the chiefe Iustices, and in their absence before the Major of the staple, and Recorder of London. The formes of all these bonds, or statutes, see in West. parie pri. fimbol.li. 2. feet. 152. 153. 154. 155. Statutes is also vsed in our vulgar talke, for the petit feffions, which are yearely kept for the disposing of feruants in seruice, by the statute, anno 5. Eliz. cap. 4. see Recognisance.

Statute sessions, otherwise called petit sessions, are a meeting in every hundred of all the shires in England, where of custome they have beene vsed, vnto the which the constables doe repaire, and others both housholders and servants, for the

debating of differences between masters and their servants, the rating of servants wages, and the bestowing of such people in service, as being sit to serve, either resuse to seeke, or cannot get Masters, anno 5. Eliz. cap. 4.

Statuto stapule, is a writ that lietht o take his body to prison, and to seise vpon his lands and goods, that hath forseited a bond, called statut staple. Re-

gifter orig. fol. 155.a.

Statuum de laboriis, is a writ Iudiciall for the apprehending of such laborers, as resuse to worke according to the statut. Register Iudicials. fol. 27. b.

Statuto Mercatorio, is a writ for the imprisoning of him, that hath forfeited a bond called the statut Merchant, untill the dept be satisfied. Register orig. fol. 146.b. and of these there is one against lay persons, whi supra. and another against Ecclesia-sticall. 148.

Stavisaker, staphis agria, vel herba pedicularis, is a medicinable herb, the kinde and vertues whereof, you have set forth in Gerards herball, lib. 1. cap. 130. The seede of this is mentioned among drugs to be garbled, anno prim. Iacob. cap. 19.

Stennerse, is vsed for the same that Stannaries be, in the statute anno 4. H. 8. cap. 8. see Stanna-

ries.

Sterling (Sterlingum) is a proper epitheton for money current within the Realme . name groweth from this, that there was a certain pure coyne, stamped first of all by the Ea-Rerlings here in England. Stomes Annalls.pag. 312. The which I rather beleeue, because in certaine old monuments of our English, and broken French, I finde it written Esterling. so Ro. Hoveden writeth it. parte poster. annalium. fol. 377. b. M. Skene de verborum signif. verbo. Sterlingus, faith thus: Herling is a kinde of weight conteining 32. cornes, or graines of wheat. And in the Canon law mention is made of fine shillings sterling, and of a merke starling. cap. 3. de arbitris. G. c. constituit. 12.de trocurator: And the sterling peny is foe called, because it waighes so many graines, as I have fundry times proued by experience. And by the law of England the peny which is called the flerling round and without clipping wayeth 32. graines of wheat without tailes, whereof 20. make an ounce, and 12, onnces a pound, and eight pound maketh a gallon of wine, and eight gallons make a bushell of London, which is the eight part of a quarter. Hitherto M. Skene. Buchanan . lib. 6. faith, that the common people thinke it fo 2993

termed, of sterling a towne in Scotland. Our Lyndwood saith that it is called sterling of the bird which we call a sterling which as he noteth, was ingrauen in one quarter of the coine so termed. cap. Item quia. de testamentis. verbo. Centum solidos. in glos.

Stemes, are those places, which were permitted in England to women of professed incontinencie, for the profer of their bodies to all commers : It is deriued from the French (Estuves.i. therme, vaporarium, Balneum) because wantons are wont to prepare themselues, to these venerous acts, by bathing themselves. And that this is not, newe, Homer sheweth in the 8. booke of his Odiff. where he reckoneth hot bathes among the effeminate fort of pleasures, Of these stewes see the statute anno II. Henric. 6.cap. pri.

Steward. See Seneschall and Stumard, Steward of the Kings house anno 25. Ed. 3. statute.5.

Stillyard (Guilda Theutonicorum anno 22. H. 8. ca. 8. & anno 22. eiusdem ca. 14.) is a place in London, where the fraternity of the Easterling Merchants, otherwise the Merchants of Hamsse and Almaine.annopri: Ed. 6. cap. 13. Are wont to have their aboade. see Geld. It is so called of a broad place, or courte, wherein steele was much fould. vpon the which that house is now founded. Nathan Chitrans. See Hamnse.

Stone of well. (Petra lanx) fee meights. See Sarpler. It ought to weigh fourteene pounds, yet in some places by custome it is more. See Cromptons Instice of

peace. fol. 83.6.

Straife alias Stray. See Estrie. Straites anno 18. H. 6. ca. 16. Streme workes, is a kinde of worke in the Stannaries: for (faith M. Camdentitulo Cornwall pag. 119.) Horum Stannariorum sue metallicorum operum duo sunt genera: Alterum Lode-works, alterum streme-works vocant. Hoc in locis inferioribus est cum Fossis agendis stanni venas sectantur & fluviorum alueos submde deflectunt: illud in locis aditioribus, cum in montibus puteos, quos Shafts vocant in magnam altıtudinem defodiunt, & cuniculos agunt. Thefe you may read mentioned anno 27. H. 8. ca.23.

Starks.

Strip. See Estreapement.

Stuard, alias steward (senescallus) seemeth to be compounded of Steede and ward, and is a word of many applications: yet alway signifieth an officer of cheise accoumpte within the place of his stway. The greatest of these is the Lord high steward of England, whose power (if those antiquities

ties be true which I have read) is next to the kings, and of that heighth, that it might in some fort match the Ephori amongst the Lacedemonians. The custome of our commonwealth hath vppon great confideration and policie brought it to passe, that this high Officer is not appointed for any long time, but onely for the dispatch of some especiall businesse, at the arraignment of some Noble man in the case of treafon, or fuch like: which once ended, his commission expireth. Of the high Steward of Englands Court, you may reade Cromptons

Iurisdiction. fol. 82.

Ihaue reade in an auncient manuscript of what credit, I know not, that this officer was of fo great power in auncient times, that if any one had fought iustice in the Kings Court and not found it, he might vpon complaint thereof made vnto him, take those petitions, and referuing them to the next Parlament, cause them there to bee propounded, and not onely fo, but also in the presence of the King openly to rebuke the Chaunceler, or any other ludge, orofficer whom he found defe. Cline in yeelding instice. And if in case the ludge, or officer so reprehended, did alledge, that his defect grew from the difficultie of the case, infomuch as

he durst not aduenture vpon it: then the cafe being shewed, and fo found, the Lord steward together with the Constable of England there in the presence of the King and Parlament. might elect 25. persons, or more, or fewer, according to their discretion, and the case or cases in question, some Earles, fome Barons, some Knights, some Citizens and Burgeffes, which vpon deliberation should set downe, what they thought iust and equal: and their decree being read and allowed by Parlament, did stand as a law . for euer: fardermore ; if the Chaunceler or other Iudge or officer, could not well approve, that the delay of inflice complained of, grew from iuft difficultie, by reason that the case in question was formerly determined by lane or statute: then might the fleward on the Kings behalfe, admonish him of his negligence, and will him to be more carefull and fludious. Or if there appeared malice, or corruption, then the King and Parlament was wont to remove him and affigne another of better hope to the place. Lastly, if the king had about him any fuch euill Counceller, as advised him to things vniuft, or vnanfwerable to his Maiestie, as tending either to the disherifon of the

Crowne

Crowne, publike hurt, or destruction of the subject. The office of the Steward was, taking to him the Constable, and other great men, with some of the Commons, and giving notice to the King of their intention, to fend to that Counseler, and will him to defift from misleading the king, yea, if need fo required, to charge him to stay no longerabout him, but to depart from the Court, which if he neglected to performe, then they might fend to the King, and will him to remove him: and if the king refused, then they might take him as a publike enemie to the King and Realme, seise on his goods and possessions, and commit his body to fafe custody, vntill the next Parlament, there to be Judged by the whole kingdome:examples are brought of Godwin Earle of Kent in the time of King Edward next beforethe Conquerour, of Hubert Burgh Earle of the fame County. in the reigne of Henry the third, and of Peter Gaueston, in Edward the seconds daies. But experience (as I said) hath found this officer more daungerous then profitable, and therefore hath time taught, though not wholly to suppresse him, yet to limite him to particular occasion, and to restraine his power. Then is there the Steward of the Kings most

honourable houshould, anno 24. H. 8. cap. 13. whose name is changed to the name of great Master. anno 32. einsdem, cap. 29 But this statute was repealed by anno prim. Mar. 2. Parlam. cap. 4 and the office of the Lord Steward of the Kings houshold reuiued: where you may at large reade divers things touching his office. As also in Fitzh. nat. br. fol. 241. B. Of this Officers auncient power, reade Fleta, lib. 2. cap. 3. There is also a Steward of the Marshalfea. pl. cor. fol. 52. ф акко 33. H. 8. сар. 12. Tobe short, this word is of so great diversitie, that there is not a corporation of any accompt, or house of any honour, almost through the realme, but it hath an officer toward it of this name. A steward of a maner, or of a houshold, what he is or ought to be, Fleta fully describeth. lib. 2 cap. 71. 6 72.

Straunger, commeth of the French (estranger. i. alienare.) It signifieth in our Language generally a man borne out of the land or vnknowne: but in the lawe, it hath an especiall signification for him that is not privile or a party to an act: as a Straunger to a judgement: oldna. br. fol. 128. is he to whome a judgement doth not belong. And in this signification it is directly contrarie to (partie) or

(prinie.)

(privie.) See Privie.

Submarshall, (Submarescallus) is an officer in the Marshalsea, that is, deputie to the chiefe Marshall of the Kings house, commonly called the Knight Marshall, and hath the custody of the prisoners there. Cromptons Iurisdist. fol. 104. He is otherwise called Vnder-marshall.

Subpana, is a writ that lyeth to call a man into the Chauncerie, vpon such case onely, as the common lawe faileth inand hath not prouided for: fo as the partie who in equitie hath wrong, can have none ordinary remedie, by the rules and courfe of the common lawe, West part. 2. Symbol. titulo Proceedings in Chauncerie lest. 18. where you may reade many examples of such cases, as sub pæna lyeth in. There is also a sub pana ad restificandum, which lyeth for the calling in of witnesses to testifie in a cause, as well in Chauncerie, as in other courts. And the name of both these proceede from words in the writ, which charge the partie called to appeare at the day and place affigned, sub pæns centum librarum, &c. I find mention of a common sub poena in Cromptons Iurisaict.fol. 33. which fignifieth nothing elfe but such a sub poena, as every common person is called by into the Chauncerie: whereas any

Lord of Parlament is called by the Lord Chauncelers leters: giving him notice of the fuit intended against him, and requiring him to appeare. Crompton. eodem.

Subsidie, (subsidium) commeth of the French (Subside) fignifying a taxe or tribute affeffed by Parlament, and graunted by the commons to be lenied of uery subject, according to the value of his lands or goods after the rate of 4. shillings in the pound for land, and a. Thillings 8. pence for goods, as it is most commonly vsed at this day. Some hold opinion, that this fubfidie is graunted by the subject to the Prince, in recompence or confideration. that whereas the Prince of his absolute power, might make lawes of himfelfe, he doth of fauour admit the confent of his subjects therein, what all things in their owne confeffion may be done with the greater indifferencie. The maner of affeffing every mans lands or goods, is this first, there iffueth a Commission out of the Chaunceric to some men of honour or worthip in enery Countie, by vertue thereof to call vnto them, the head Constables or Bayliffes of enery Hundred, and by them the Conftable and three or soure of the substantiallest

Rrr I house-

housholders in enery towne within their hundred at a day certaines which men fo called, or lo many of them, as the Commissioners thinke good to vse, do rate the inhabitants of their owne towne, in fuch reasonable maner, as they find meete, yet by the discretion of the said Commissioners. And then every man after his value set downe, must at his time pay to the Collectour appointed, after the rave aforesaid. Yet in auncient time, these subfidies seeme to have beene graunted both for other causes, as in respect of the Kings great trauell, and expences in warres: or his great fauours toward his subjects: as also in other maner then now they be: as euery ninth Lambe, euery ninth fleece, and enery ninth sheafe. anno 14. Ed. 3. stat. prim. cap. 20. And of these you may see great, varietie in Rastals Abridgement. tit. Taxes, Tenths, Fifteenths, Subsidies, &c. whence you may gather that there is no certaine rate. but euen as the two houses shall thinke good to conclude. Subfidie is in the statute of the land, fometime confounded with cu-Rome, anno I I. H. 4. cap. 7. See Beneuolence.

Suretie of peace, (securitas pacis) is an acknowledging of a bond to the Prince, taken by a competent Judge of Record, for the

keeping of the peace. Lamberds
Eirenarcha, li. 2. cap. 2. pag. 77.
This peace may a Iustice of
peace commaund, either as a
Minister, when he is willed so
to doe by a higher authoritie,
or as a Judge, when he doth
it of his owne power deriued from his commission. Of
both these see Lamberd, Eirenarcha. lib. 2.ca. 2. pag. 77. see

Peace, see Supplicaunt.

Suffragan (Suffraganeus) is a titular Bishop ordeined, and affisted to aide the Bishop of the Dioces in his spirituall function. c. Suffraganeus. Extra de electione. For the Etimology, Suffrag anei dicuntur, quia corum suffragiis cause ecclesiastica indicantur. Ioach. Stephanus de Iurisa. li. 4. ca. 16. nu. 14. It was inacted anno 26. H. 8. ca. 14. that it should be lawfull to every Diocefan at his pleasure to elect two sufficient men within his Dioces, and to present them to the King, that he might give the one of them such title, stile, name, and dignity of fease in the faide statut specified, as he should think convenient.

Suyte (Secta) commeth of the French (Suite.i. affectatio, confecutio, sequela, comitatus) It significant in our common law, a following of another, but in diuers senses, the first is a suite

in lawe, and is divided into fuite reall, and personall. Kitchin fol. 74. which is all one with action reall and personal. Then is there suite of Court, or suite seruice : that is an attendance which a tenent oweth at the court of his Lord. Fitzh. nas. br. in Indice. verbo Suite. surle feruice and suyte reall, anno 7. H. 7. cap. 2. The newe expositour of lawe Termes, maketh mention of foure forts of fuires in this fignification. Suite couenant. fuite custom, fuite reall, and fuite sernice. Suite couenant, he defineth to be, when your auncester hath covenanted with mine auncester, to siew to the court of mine auncesters. Suite eustome, when I and mine auncesters haue beene seifed of your owne, and your auncesters suite, time out of minde. &c. Suite reall, when men come to the Shyreeues Turne, or Leete, to which court all men are copelled to come, to knowe the lawes, fo that they may not be ignorant of things declared there, how they ought to be gouerned. And it is called reall, because of their allegance. And this appeareth by common exeperience, when one is fworne: his oath is that he shall be a loyall and faithfull man to the King. And this fuite is not for the land that he

holdeth within the Countie but by reason of his person and his aboade there, and ought to be done twice a yeare: for default whereof he shallbe amerced and not distreined. I thinke this should be called rather regall or royall, because it isperformed to the King for (royall). The French word in the viual pronuntiation commeth neere to reall, the leter (0) being almost suppressed. see Leete. Suyte service, is to siew to the Shyreeues Turn or Leete, or to the Lords court from three weekes to three weekes by the whole yeare. And for default thereof a man shall be diffreined, and not amercied. And this futte service is by reason of the tenure of a mans land. Then doth suite signifie the following of one in chace, as fresh suite. West. 1.c. 46.a. 2. Ed. 1. Lastly, it fignifieth a petition made to the prince, or great personage.

Suyte of the Kings peace (setta pacis Regis) anno 6.R. 2.stat. 2.ca. pri. & anno 21.ejusdem, cap. 15. & anno 5. H. 4. cap. 15. is the persiewing of a man for breach of the K. peace, by treasons, insurrectios, rebellios, or trespasses.

Summoneas, is a writ Iudiciall of great dinersitie, according to the diners cases wherein it is vsed, which see in the table of the Register Iudiciall.

Summoner (summonitor) signifieth one vsed to call or cite a man to any court. These by the common lawe, ought to be boni, that is by Fleta his sudgement, liberi homines, & ideo boni, quia terrus tenenes, quod sint coram talibus succiariis adce rtos diem, & loram secundum mandatum susciariorum vitecomiti diretum, parati inde facere recognitionem lib. 4. cap. 5. S. Escum.

Summons (Summonitio) fce Sommons. Common Summons. Marlb. cap. 18. anno. 52. Henric. 3.

is lo

Summons in terra petita. Kitch. fol. 286. is that summons which is made upon the land, which the party at whose suite the summons is sent forth, seeketh to haue, Summons ad Warrantizandum. Dyer fol. 69. nn. 35.

Sumage (Sumagium) feetneth to be tolle for cariage on horseback, Crompton Iurist. fol. 191. For where the Charter of the Forest, cap. 14. hath these words for a horse that beareth loades enery halfe yeare, a halfe penny the booke called Pupilla oculi, vieth these wordes pro vno equo portante summagium, per dimidium annum obolum. It is otherwise called a Seame. And a Seame in the Westerne parts is a horse loade.

Superoneratione pastura, is a writ Iudiciall that lyeth against

him who is impleaded in the County for the overburdening of a common with his catell, in case where he is formerly impleaded for it in the countie, and the cause is removed into the Kings court at Western.

Superseders, is a writ which lieth in diuers, and fundry cafes, as appeareth by the table of the Register originall, and the Iudiciall alfo, and by Fitzh . nat . br. fol. 236. and many other places noted in the Index of his booke verbo, Supersedeas. Butit fignifieth in them all a command, or request to stay or forbeare the doing of that, which in apparence of law were to be done, were it not for the cause, wherevpon the writis graunted. For example: a man regularly is to have furety of peace against him of whome he will sweare that he is afraide, and the Iustice required herevnto cannot denie him. Yet if the party be formerly bound to the peace, either in Chaunceric, or elfe where this writ lyeth to flay the Inflice from doing that, which otherwise he might not de-

Superstatutum, Ed 2. vers servants and labourers, is a writ that lyeth against him, who keepeth my seruant departed out of my seruice against lawe. Fuzh.nat. fo. 167.

Super statuto de Tork quo nul sera viteller, &c. is a writ lying against him, that occupieth vitteling either in grosse or by retaile in a Citie, or Borough towne, during the time he is Maior, &c. Fizh. natur.bre.fol. 172.

Super flatuto, annopri. Ed. 3. cap. 12. & 13. is a write that lyeth against the Kings Tenent holding in cheife, which alienateth the kings land witout the Kings license. Fitzh: nat. br.

fol. 175.

Superstatute facto pour seneshall & Marshall de Roy, &c. is a writ lying against the Steward, or Marshall for holding plee in his court of freehould, or for trespasse, or contracts not made within the Kings houshold. Firzherbert nat. breu. fol. 241.

Super statuto de Articulis Cleri, cap. 6. is a writ against the Shyreeue, or other officer, that diffreineth in the Kings high way, or in the glebe land aunciently given to Rectories. Firsh. nat.

br. fol. 173.

Super prerogativa Regis, cap. 3. is a writelying again the kings widow for marying without his licence. Fitzherbert. nat. br. fol, 174.

Supplicauit, is a writ issuing out the Chauncerie for taking the surety of peace against a

man. It is directed to the Iustices of peace of the county, and the Shyrecue: and is grounded vpon the statute, anno pri. Ed. 3. cap. 16. which ordeineth that certaine persons in chauncerie shallbe assigned to take care of the peace, See Fitch. nat. br. fol. 80. This writ was of old called Breve de minis, as M. Demberd in his Evenarcha. noteth one of the Register original, fol. 88.

Surcuin vita, is a writ that lyeth for the heire of that wo-man, whose husband having alienated her land in fee, shee bringeth not the writ Curin vita for the recovery of her owne land, for in this case her heire may take this, writ against the tenent after her decease. Fitzh.

nat.br. fol. 193. B.

Surgeon, commeth of the French (Chirurgien. i. Chirurgus, vulnerarius) lignifing him that dealeth in the mechanicall parte of phisicke, and the outward cures performed with the hand. The French word is compounded of two greeke words (xep. i.manus) and epyov. i. epus) And therefore are they not alowed to minister inward medicine. See the statut. 32.H. 8. ca. 4. and M. Powltons new abridgement, titulo Surgeons.

Surcharger of the forest, is he that docth common with more beasts in the forest, then he

Rrr 3 hath

hath right to common withall. Manwood, parte 2. of his forest lawes. cap. 14. nu. 7.

Surplusage (surplusagium) commeth of the French (surplus is correllarium, additamentum) It signifieth in the common law, a superfluity or addition more then needeth, which sometime is a cause chat a writ abateth. Brooke, eimlo, Nugation & Superfluity, fol. 100. Plowden casu Diue, contra Maningham, fol. 63.b. It is sometime also applied to mater of accoumpt, and signifieth a greater disbursement, then the charge of the accoumptant amounteth vnto.

Surreioynder, is thus defined by West. parte 2. symb. titulo. Supplications. Sect. 57. A Surreioynder, is a second defence of the plaintises actio, opposite to the Defendants Reioynder. And therefore (as he saith) Hotoman calleth it Triplicationem, quaest secunda alteris defensio, contra Rei duplicationem opposita. Not Hotoman onely calleth this triplicationem: but the Emperour himselfe. De Replicationibus, libro. 4. Institut: titulo. 14.

Surrender (sursum redditio) is an Instrument testifiing with apt words, that the particular tenent of lands, or tenements for life or yeares, doth sufficiently consent and agree, that he which hath the next or immediate Remainder, or Reuersion thereof, shall also have the particular estate of the same in possession: and that he yeeldeth, and giveth vp the same vnto him. For every surrender ought forthwith to giue a possession of the things surrendred. West: parte pri: lib. 2. fectio. 503. where you may fee divers presidents. But there may be a surrender without writing. And therefore there is faid to be a surrender in deede, and a surrender in law. A furrender in deede, is that which is really and fensibly performed. Surrender in law is in intendment of law by way of confequent, and not a-Ctuall. Perbins Surrender, 606.6 fegg. as if a man haue a leafe of a ferm, & during the terme, he accept of a new lease, this act is in law a surrender of the former. Coke. vol. 6. fo. 11. b.

Surfise (supersisa) anno 32. H.8. ca. 48. seemeth to be an especiall name vsed in the Cassle of Doner, for such penalties, and forfeitures, as are laid vpon those that pay not their duties or rent for Cassleward at their daies. a. 32. H.8.ca. 48. Brast. hathit in a generall signification lib.5. trast. 3.ca. 1.nu. 8. and Fleta lib. 6.ca. 3.in prin.

Surveiour (supervisor) is compounded of two French words (sur .1. super) and veoir .1. cernere intuers, despicere, prospicere, videre) It signifies hin our common law,

one that hath the ouerfeeing or care of some great personages lands, or works. As the Surueiour generall of the Kings maners. Cromptons Iurifd. fo. 106. And in this fignification it istaken anno 33. H. 8. cap. 39. where there is a court of Surveyours erected. And the Surveiour of the Wards and Liuerks. West parte 2. simbologr: titulo Channery: feet: 1 36. which officer is erected anno 33. H. 8. ca. 22. who is the fecond officer by his place in the court of wards and Liueries, affigned and appointed by the king. His office feemeth especially to confist in the true examination of the lands belonging to the Kings wards, that the King be not deceived. At the entrance into his office.he taketh an oath ministred vnto him by the Maifter of that Court, which fee an. 32. H. 8. cap. 39.

Surveyour of the Kings exchaunge, anno 9. H. 5. stat. 2.ca. 4. was an officer, whose name seemeth in these daies to be changed into some other. For I cannot learne that there is any such now.

Surumour, is compounded of two French words (Sur.i. super) and viure.i. at a tem agere, viuere) whence also commeth the compound (Surviure.i. superesse) It significant in our common law, the longer liver of two ioynt tenents. See Brooke, titulo Ioynt te-

nents, fol. 33. or of any two ioyned in the right of any thing.

Suspension (Suspensio) is vsed for a temporal stop of a mans right, and differeth from extinguishment in this, that a Right of Estate suspended reviewth againe, but extinguished it dyeth for euer. Brooke, titulo Extinguishment and Suspension. fol. 314. Suspension is also vsed in our common lawe, sometimes as it is vsed in the Canon lawe, pro minori excommunicatione. As anno 24. H. 8. cap. 12. See Excommunication.

Suspirall, seemeth to be a spring of water passing vinder the ground, toward a conduit or cesterne. anno 35. H. 8. ca. 10. and to be derived from the Latine (suspirare) or the French (souspirer) i. ducere suspiria. And indeed the word it self is French for (souspiral) in that tongue, significth (spramentum canerna) the mouth of a cave or denior the tunnell of a chimney.

Swainmot, alias Swanimote, (Swainmotum) signifieth a Court touching maters of the Forest kept by the Charter of the Forest, thrice in the yeare: anno 3 Henr. octau. cap. 18. it is called a Swannie-mote: what things be inquirable in the same, you may reade in Cromptons Iurist. fol. 180. who saith that this court of Swainemote is as in-

cident

cident to a Forest, as the court of Piepowder is to a faire, with whome agreeth M. Manwood parte prie of his Forest lames, pag. 144. The word seemeth to be compounded of (Smain) and (mot) or (Gemot). For swaine, as M. Manwood laith vbi supra, pag. III) in the Saxons tongue fignifieth a Bockland man, which ac this day is taken for a Charterer, or freeholder: and (Gemot) as M. Lamberd faith in his explication of Saxon words, verbo Conventus, is Conventus, wherevponitis to be noted, as he faith in the same place that the Swainemote is a court of freeholders within the Forest Of the which you may reade him at large, pag. 110. &c. vique

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Tabling of fines, is the making of a table for euery countie, where his Maiesties writ runneth, conteining the contents of euery
sine, that shall passe in any
one terme, as the name of the
Countie, townes, and places,
wherein the lands or tenements
mentioned in any fine, do lye,
the name of the plaintisse and
Deforceant, and of euery maner named in the sine. This
is to be cone properly by the
Chirographer of sines of the com-

mon plees: who the first day of the next terme after the engroffing of any fuch fine, shall fixe every of the faid tables in some open place of the court of Common plees : and fo cuery day of the faid terme during the fitting of the faid court. And the said Chirographer shall deliver to the Shyrceue of every Countie, his Vndershyreeue or Deputie, faire writen in parchment, a perfect content of the table so to be made for that shire, in the terme that shall be next before the Affifes to be holden in the same countie, or else in the meane time betweene the terme, and the said assises, to be set vp the first day, and enery day of the next assises, in some open place of the Court, where the Instices of Affises then shall sit, to continue there folong, as they shall sit in the faid court. If either the Chirographer, or Shyreeue faile herein, he forfeiteth fine pounds. And the Chirographers fee for every such table is foure pence. anno 23. Elizab. cap. 3. This faith, West. parte 2. symbol. titulo. Fines, sect. 130.

Taile (Tallium) commeth of the French (taile.i. Sectura) or the verb (tailler.i. scindere) fignifing in our common law two seuerall things, both grounded vpon one reason. Plowden, casuvil-

lion. fol, 251. a. b. First it is vsed for the fee, which is opposite to fee simple: by reason that it is so (as it were) minced, or pared, that it is not in his free power to be disposed of him which owneth it: but is by the first giver cut, or divided from all other, and tyed to the issue of the Donee. Cooke lib. 4. in proæmio. And this limitation, or taile, is either generall, or speciall. Taile generall is that, whereby lands, or tenements are limited to a man, and to the heires of his body begotten. And the reason of this terme is, because how many socuer women, the tenent houlding by this title, shall take to his wives, one after another in lawfull matrimony; his issue by them all, have a possibility to inherit, one after the other. Taile speciall is that, whereby lands, or tenements be limited vnto a man and his wife. and the heires of their two bodies begotten : because if the man bury his wife before iffue, and take another : the iffue by this second wife cannot inherit the land, &c. Also if land should be given to a man and his wife, and to their sonne and heire Iohn, for cuer: this is taile efpeciall. See more of this in fee, and Litleton lib. pri:ca. 2. and the new booke of Entries. verbo Taile. Taile in the other fignification, is that which we vulgarly call a

Tallie. For it is une taille de bois a clouen peece of wood to nick up an accoumpt upon, for in the statute anno 10. Ed pri. cap. 11. and anno 27. eiusdem. state, and anno 38. Ed 3. cap. 5. And so in Brooke his Abridgement, titulo. Taile d' Exchequer sol. 247. See Tayles.

Tailes (tallia) are in these daies called Talleyes, well knowne what they be. Of these reade in our statutes two forts, to haue bene vsuall in the Exchequer for a long continuance. The one is tearmed tayles of debt, anno 1. R. 2. cap. s. which are a kind of acquittance for dept paide into the king. For example, the Vniversitie of Cambridge payeth yearely ten pounds, for fuch things as are by their Charter graunted them in fec ferme. fiue pounds at the Annunciation and five at Michaelmas. He that payeth the first five pounds, receiveth for his discharge a taile or taley, and he that payeth the other five, receiveth the like. With both which, or notes of them, he repayreth to the Clerke of the Pipesoffice, and there in steede of them receiveth an acquittance in parchment for his whole discharge. Then be there also mentioned tayles of reward, anno 27. H.S. cap. 11. & anno 33. & 34. eiusdem.ca. 16. and anno 2. & 3. Ed. 6. ca. SIII 4. And

4. And these seeme to be tailes, ortalyes of allowances, or recompence made to Shyreeues for fuch maters, as to their charge they have performed in their office, or for fuch monies as they by course have cast vpon them in their accompts, but could not leavie the where they were duc. And these, as it scemeth by the faid statute, anno 27. H. 8. cap. 11. were of old graunted in the Exchequer vnto them, ypon warrant made to the Treasurer and Chamberlaines there, by the Clerkes of the fignet vpon bill affigned by the King. But fithence the statute anno 2. & 3. Ed. 6. cap. 4. what the course in this case is, I am not so well informed. Only I heare, that for some counties these tayles bestill in vse, and that the warrant commeth now from the Auditour of the receipts, vnto those that make these taleys. And that the Shyreene with them proceedeth to those who take his finall accompt, and there hath his allowance accordingly.

Taylage (tallagium) alias, Tallage, commeth of the French (taille) which originally fignifieth a peece cut out of the whole: and metaphorically is vfed for a share of a mans substance payed by way of tribute.

It fignifieth with vs a tolle, or taxe, as anno pri. Ed. 2. cap. vnico. And Stones Annals. pag. 445. Thence commeth Tailagiers in Chancer for taxe, or tolle gatherers.

Taint (Attinctus) commeth of the French (teinet.i. infectus, tin-Etus) and fignifieth either fubstantiuely a conviction, or adiechinely a person convicted of felonie or treason, &c. Sce Attaint.

Tales, is a latine word of knowne fignification: It is vfed in our common lawe, for a supply of men empaneled ypon a jury or enquelt, and not appearing, or at their apparence, chalenged by the partie, or either partie, if there be two, as not indifferent for in this cafe, the ludge vpon petition graunteth a fupply to be made by the Shyrecue of some men there present, equall in reputation to those that were impaneled. And herevpon the very act of supplying is called a Tales de Circumstantibus. This Supply may be one or more, and of as many as fhall either make defaulte, or els be chalenged by each party. Stamf. pl.cor. lib.3. ca.s. How be it, he that hath had one Tales, either vpon default orchallenge: though he may have another.

ther, yet he may not have the later to conteine fo many as the former, for the first Tales must be vnder the principall panell. except in a cause of Appeale, and so every Tales lesse then other vntill the number be made vp of men present in courte, and fuch as are without exception to the partie, or parties. Of this see Stampford more at large vbi supra. where you may finde some exceptions to this generall rule. These commonly called (Tales) may in some fort, and in deede are called (Meliores) viz. when the whole Iurie is chalenged, as appeareth by Brooke, titulo. Octo tales & auter tales, fol. 105. In whome you may likewise reademany cases touching this mater.

Tales, is the proper name of a booke in the Kings bench office. Coke lib. 4. fol. 93.b.

Tallage. See Taylage. Talshide. See Talwood.

Talwood, v. anno 34 · & 35 · Henric. estau · capit · 3. & anno 7. Ed. 6. ca. 7. & 43 · El. cap. 14. Talshide. ibidem · It is a long kinde of shide riven out of the tree, which shortened is made into billets.

Tartaron, anno 12. Ed. 4. cap. 3. & anno 4. H.S. cap. 6.

Tafels.anno 4.Ed.4.eap.1. is a kinde of hard burre vied by

clothiers and cloth workers in

the dreffing of cloth.

Task alias Taxe, by M. Camden following the authoritie of Doctor Powell (whome he greatly commendeth for his diligence in the fearch of antiquities) is a Britishe word fignifiing tribute. Camden, Britan. pag. 304. And it seemeth, it is fuch a kinde of tribute, as being certainly rated vpon euery towne, was wont to be yearely paide. See Gild, and the places there eited out of M. Camden . Now is it not paide, but by consent giuen in Parlament, as the Subsidie is. And it differeth from Subfidie in this, that it is alway certaine, accordingly as it is fet downe in the Chequer booke, and levied in generall of euery towne, and not particularly of euerie man. Lastly, it is a fiftcenth of that substance, that every town was first rated at, by the number of hides of land in the same. Wherevpon it is also called a sifteenth v. anno 14. Ed. 2. stat. 1. cap. 20. for whereas M. Crompton in his Iurisdictions, fol. saith that it is levied fomtime by goods, as well as by lands, as also appeareth by the statute, anno 9. H. 4.ca. 7. I take his meaning there to be, that though the task in the Sff 2 whole

whole were at the first by the Prince proportioned by the land : Yet the townes men among themselues to make vp that summe, are at these daies fometime valued by goods. See Fiftenth. It feemeth that in auncient times, this task was impofed by the king at his pleasure, but Edward the first, anno 25. of his raigne, bound himfelfe, and his successours from that time forward; not to leuie it but by the confent of the Realme.anno 25. Ed. pri. cap. 5. The word Task may be thought to proceede from the French (Taux alias Taxe.i. astimatio, pretium) for we call it also Taxe: but ouer curiously to contend in these derivatios, may seeme friuo. lous, cofidering that many words are common to divers peoples.

Telonium, or Breue esfendi quietum de Telonio, is 2 writ lying for the Citizens of any Citie, or Bourgesses of any towne that have a Charter, or prescription to free them from Tolle, against the officers of any town, or market conftraining them to pay Tolle of their Merchandife, contrary to their faid graunt or prescription. Fitzb. nat. br. fol. 226. Hotoman lib. 2. commentariorum in feuda, cap. 56. ver [. Vestigalia, hath these words: Telonia autem dicuntur, publicanorum stationes in quibus vectigalia

recipiunt: sed apud istius generis scriptores, Telonium dicitur vestigal, quod pro pontium aut riparum munitione penditur: & plerumg, à principibus solius exactionis causa, imperatur.

Team, alias Theam, is an ould Saxon word, fignifing a Royalty granted by the Kings charter, to a Lord of a maner . Bracton li. 3. tracta. 2. ca. 8. of this Saint Edwards lawes, nu. 25. fay thus. Quod si quisquam aliquid interciet (ideft, penes alium defendat) super aliquem, & intercitatus, non poterit warantum suum habere, erit forisfactura sua, & Insticia similiter de calumniatore, si defecerit. M.Skene de verborum significatione verbo Theme. faith, that it is a power to haue seruants and slaues, which are called nativi, bondi, villani, and all Baronies infeoffed with Theme, have the same power. For vnto them all their bondmen, their children, goods and cattels, properly apperraine: fo that they may dispose of them, at their pleasure. And in some ould authentike bookes it is writen. Theme est potestas habendi natinos, ita quod generationes villanorum vestrorum, cum eorum catallis, vbicung, inueniantur, advos pertineant, Theme commeth from Than i. fervus, and therefore fome time signifieth the bondmen, and flaucs, according to an ould flatute and law. De suria de The-

me. Quod si quis teneat curiam de Theme, & illa querela in illa curia mouetur, ad quam Theme vocatur: non debet illa curia elongari, sed ibidem determinari . & omnes Theme ibi compareant. Which is ynderstoode of the question of liberty, when it is in doubt, whether any person be a bondman or free man. Which kinde of proces should not be delayed but fummarily discided. And the new expositonr of law terms. speaketh to the like effect, verbo Them. I read it also in an ould paper writen by an exchequer man thus translated : Theam .i. propago villanorum.

Teller, is an officer in the Eschequer, of which sort their be foure in number. And their office is, to receive all monies due to the King, and to give to the clerk of the Pel a bill to charge him therewith. They also pay to all persons, any money paiable vnto them by the King, by warrant from the auditour of the receipt. They also make weekely and yearely bookes both of their receipts & payments, which they deliver to the L. Treasurer.

Templers (Templarii) See Knights of the Temple. These whillest they florished here in England, which seemeth to be all that time betweene Henry the seconds daies, vntill they were suppressed, had in every nation a particular governour, whom

Brac. calleth Magistru militia Tepli:1.1.c. 10. Of these read M. Cam. in his Br.p. 3 20. See Hospitalers.

Temporalties of Bishops (Temporalia Episcoporum) be such reuenewes, lands, and tenements, as Bishops have had laid to their Sees by the Kings and other great personages of this land from time to time, as they are Barons, and Lords of the Parlament. See Spiritualties of Bishops.

Tend, seemeth to signific, as much as to indeuour, or offer, or shew forth, to tend the estate of the party of the Demaundant, old n.br. f. 123.b. to tend to trauers. Stawnf: prarog. fol. 96. to tend an auertment. Britton, cap. 76.

Tender, seemeth to come of the French (Tendre .i. tener, delicatus) and being vsed adjectively, fignifieth in english speech, as much as it doth in French. But in our common law it is vied as a verb : and betokeneth as much, as carefully to offer, or circumspectly to indevour the performance of any thing belonging vnto vs : as to tender rent, is to offer it at the time and place where and when it ought to be paid. To tender his law of non Summons. Kitch. fo. 197. is to offer himselfe ready to make his law, whereby to prooue that he was not fummoned. See law. See make.

Tenementis legatis, jis a writ SIS 3 that that lyeth to London, or other corporation, where the custome is, that men may demise tenements by their last will, as well as their goods and catels, to whome they list, for the hearing of any controuers touching this mater, and for the rectifying of the wrong. Regist.

orig. fol. 244.6.

Tenant, alias, tenent, (tenens) commeth either of the Latine (tenere) or of the French (tenir) and fignifieth in our common lawe, him that possesseth lands, or tenements by any kind of right, be it in fee, for life, or for yeares. This word is ysed with great diuersitie of Epithits in the lawe, sometime signifying or importing the efficient cause of possession, as tenent in Dower: which is shee, that possesseth land,&c. by vertue of her Dower. Kitchin, fol. 160. Tenent per statute Merchant. 1dem, fol. 172. that is, he that holdeth land by vertue of a statute forfeited vnto him. Tenent in franck mariage. Kitchin, fol. 158. viz.he that holdeth land or tenement by reason of a gift thereof made voto him vpon mariage, betweene him and his wife. Tenent by the courtesie. Idem fol. 159 i. he that holdeth for his life by reason of a child begotten by him of his wife being an inheritrix, and borne aliue. Tenent per elegit. Idem, fel. 172. j. he that holdeth by vertue of the writ termed Elegit. Tenent in mortgage. idem, fol. 38. is he that holdeth by vertue of a mortgage or ypon condition, that if the lessour pay so much money at fuch a day, that he may enter. and if not, that the leaffee fhall haue a fee simple, fee tayle, or free hould. Sometime these E. pithites import the maner of admittance: as tenent by the verge in auncient demesn. Idem, fol. 81. is he that is admitted by the rod in a court of auncient demelne. Sometime the euidence, that he hath to shew for his estate: as Tenent by copy of court rolle. which is one admitted Tenent of any lands, &c. within a maner. that time out of the memoric of man, by the vie and custome of the said maner, have bene demisable, and demised to such as will take the same in fee, feetayle, for life, yeares, or at will, according to the custome of the said maner. West parte prim. sim. lib. 2. fe. 646. whom reade more at large. Againe, Tenent by charter, is he that holdeth by feofment in writing or other deede. Kitchin, fel. 57. Sometime these Epithites signifie that dutie which the tenent is to performe by reason of his tenure. As Tenent by Knights service, Tenent in Socage, Tenent in burgage, Tenent

infrank fee, Tenent in villenage. Sometime they import the estate of the tenent, or his continuance in the land, as Tenent in fee fimple. Kitchin, fol. 150. Tenent in fee taile, Idem fol. 153. Tenent for life, and tenent for yeares: Idem, fol. 163. Tenent at the will of the Lord according to the cu-Rome of the maner. Idem fol. 1 32. & 165. Tenent at will by the common law. Idem, eodem. Tenent vpon sufferance. Idem, fol. 165. Tenent of state of inheritance. Stawnf: prarog. fol. 6. Sometime they containe a relation toward the Lord of whom he houldeth, as Tenent in cheife i. he that houldeth of the King in the right of his crowne. Fitz. nat: br. fol. 5. F. Tenent of the King, as of the person of the King. Idem, eodem. or as of some honour. eodem: Very tenent .i. he that houldeth immediately of his Lord. Kitchin fol. 99. For if there be Lord Mesn. and Tenent, the Tenent is very Tenent to the mesn, but not to the Lord abouc. Tenent parauaile, pl. cor: fo. 197. & Fitzb. nat. br. fol. 136. D. is the lowest tenent, and fardest distant from the Lord Paramont. It seemeth to be tenent per auaile. See Diers commentaries fol. 25.nu. 156. Noe tenent in right to the Lord, but Tenent as for the avowrie to be made, Litleton, fol. 96. Sometime they

haue a relation betweene Tenents, and Tenents in severall kindes, as joynt tenents .i. they that have equall right in lands and tenements, and all by vertue of one title. Litleton, li. 3.ca.3. Tenents in common, be they that have equall right, but hold by divers titles, as one or more by gift or descent, and others by purchase. Idem, eed. cap. 4. Particular tenent. Stawnf. prarog. fol. 13. that is, he which holdeth onely for his terme, as tenent in dower, tenent by the courtesie, or otherwise for life, West parte 2. symbol. titulo. Fines. fect. 13. G. See anno 32. H. 8.ca. 31. and Cooke in Ser William Pellams case. lib. s. fol. 15. a. they be termours for yeares or life. See Plowden casu Colthirst. fol. 13.6. Sole tenent, Kitchin 134. i. he that hath none other joyned with him. If a man and his wifehold for both their lines, and the man dyeth, he dieth not sole tenent, Idem eodem. Seuerall tenent, is opposite to joynt tenents or tenents in common. See Seuerall tenencie. Tenent al pracipe, is he, against whom the writ (Fracipe) is to be brought. Cookes Reports. lib. 3. the case of fines. fol. 88.a. Tenent in demesn, anno 13. Ed. 1. cap. 9. anno 32. H. 8. cap. 37. is he that holdeth the demeanes of a maner for a rent without seruice. Tenent in feruice,

Seruice.an. 20. Ed. 1. fat. pri. is he that holdeth by scruice v. Britton, cap. 79. in principie, & ca. 96. Car fealte. &c. vel quare whether he may be termed tenent in demesne, that holdeth some of the Demeanes how soeuer, and he tenent in feruice, which is a freehoulder a maner houlding by feruice, for the free houlds of a manner are not accounted of the demesne, but onely that which the Lord keepeth in his owne hand or letteth out by copie, according to the custome of the maner. Tenent by execution an. 32. Henr. 8. cap. 5. is he that holdeth land by vertue of an exeution vpon any statute, recognisance,&c.

Tendebeved (decanus, vel caput decem familiarum) of this see Roger Hoveden, parte poster. suorum annalium. fol. 346. a. See Frank

pledge.

Tenement (Tenementum) is diversly vsed in the common lawe, Most properly it signifieth a house or home stall: but in a larger signification it is taken for either house or land that a man holdeth of another. And ioyned with the adiective (Frank) in our lawyers French, it conteineth generally lands or houses, yea or offices, wherein we have estate for terme of life, or in see. And in this significa-

tion, Katchin, fol. 41. maketh frank tenement, and base estate opposite the one to the other. In the same fort doth Britton vse it, through his whole 27. chapter, as also Bracton doeth the latine (liberum tenentum) lib. pri. cap. 5.66. and many other places.

Tenentibus in assista non onerandis, &v. is a writ that lieth for him to whome a disselfour hath alienated the land whereof he disselfed another, that he be not molested for the dammages awarded, if the Disselfour have wherewith to satisfic them him selfe. Register org. fol. 214. b.

Tenths (Decime) is that yearely portion or tribute, which all liuings ecclesiasticall doe veeld to the king. For though the Bishop of Rome doe originally pretend right vnto this revenewe, by example of the high preist among the lewes, who had tenths from the Levites, Numb. cap. 8. Hieronimus in Ezechielem. yet I read in our Chronicles that thefe were often graunted to the King by the Pope, vpon diuers occasions, sometime for one yeare, sometime for more, vntill by the statute, anno 26. Hen. 8.cap. 3. they were annexed perpetually to the Crown. See Difms. It figni. fieth also a taske leuied of the temporalty. Holinshed. H. 2.f.111.

Te.

Tenere indictamenti mittendo, is a writ whereby the Record of an indictment, and the process thereupon, is called out of another court into the chaunce-rie. Register orig. fol. 169.a.

Tenure (Tenura) commeth of the Norman (Teneure) as appeareth by the Grand Custumarie: cap. 28. where it is defined to this effect : Tenure is the maner, whereby tenements are houlden of their Lords. What may make a tenure and what not, see Perkins Reservations, 70. And in that chapter shall you finde the most of those tenures recited, that be now vfually in England. In Scotland I finde that there be foure maner of tenures, which they call halding of land; the first is pura eleemozina, which is proper to spirituall men, paying nothing for it, but denota animarum suffragia: the second they call Few, or few ferme, which houldeth of the King, Church, Barons, or others, paying a certaine duty called Feudi firma. The third is a hould in (Blench) as they terme it, by payment of a peny, rose, paire of guilt spurs, or some such like thing, if it be asked, in name of Blench, idest nomine albe firme. The fourth is by seruice of ward, and relieue, where the heire being minor, is in the gard or cuftody of his Lord, togither with his

lands, &c. And land houlder in this fourth maner, is called there feudum de Hauberk, or Haubert. or fendum militare, or fendum Hauberticum, or feudum loricatum; because it is given vpon condition, that the vaffall poffesfor therof, shall come to the host with a lack, or Haubert which is a coate of maile. M. Skene de verb: fignifica: verbo. Haubert. Tenure in grosse, is the Tenure in Capite. For the Crowne is called a Seignory in groffe, because it consisteth as a corporation of and by it selfe, not tyed to any honour, or maner. See Cromptons Iurifd: fol: 206. See the new booke of Entries. verbo Tenure.

Term(Terminus) signifieth with vs commonly, the bounds and limitation of time: as a lease for terme of life or terme of yeares. Bracton lib. 2. cap. 6. nu. 4. But most notoriously it is vsed for that time, wherein the Tribunals, or places of Judgement are open to all that lift to complaine of wrong, or to feeke their right by course of law, or action. The rest of the yeare is called vacation. Of these terms there be soure in euery yeare: during the which, maters of Iustice (for the most part) are dispatched, and this Sir Tho. Smith lib. 3. de Rep. Ang: cap. 2. reckoneth as miraculous: that in leffe time then the third part of the yeare, three Tribu-

Ttt I nals,

nals, all in one city, should certifie the wrongs of fo large and populous a nation, as England is. Of these terms one is called Hilary terme which beginneth the 23. of Iannuary, or if that be Sunday, the next day following, and endeth the 21. of February. Another is called Easter terme. which beginneth 18. daies after Easter and endeth the munday next after Ascension day . The third is Trinity terme, beginning the Friday next after Trinity Suday, and ending the Wedensday fortnight after. The fourth is Michaelmas ternie, beginning the o of October, or if that be Sunday, the next day after, and ending the 28. of Nouember.

Termor (Tenens ex termino) is he that houldeth for terme of yeares or life. Kitchin fol. 151.

Litleton fol. 100.

Terra extendenda, is a writ directed to the Eichestour, &c. willing him to inquire and find the true yearely value of any land,&c. by the oath of twelve men, and to certifie the extent into the Chauncerie,&c. Regift. orig. fol. 293. b.

Terris, bonis & catallie rehabendis post purgationem, is a writ that lyeth for a Clerke to recour his lands, goods, or chatels formerly seised on, after he hath cleared himselfe of that selonie, vpon suspicion whereof he was formerly convicted, and delivered to his Ordinarie to be purged. Regist. orig. fol. 68. b.

Terris liberandis, is a writ, that lyeth for a man connicted by attaint, to bring the Record and processe before the King, and to take a fine for his imprisonment, and to deliuer him his lands and tenements againe, and to release him of the Strip and Waste. Regist.orig. fol. 232.

a. It is also a writ for deliuery of lands to the heire after homage, and reliefe performed. eodem fol. 293. b. or vpon securitie taken, that he shall performe them. eodem, fol. 313. b.

Terris & catallis tentis vlera debitum levatum, is a writ Iudiciall, for the restoring of lands or goods to a deptour that is distrained about the quantitie of the dept. Register Iudiciall. fol.

28.6.

Terretenent, (terratenens) is he which hath the naturall, and actuall possession of the land, which we otherwise call the occupation. anno 39. Eliz. cap. 7. For example, a Lord of a maner hath a freeholder, who letteth out his free land to another to be occupied this occupier is called the Terretenent. West. parte 2. Symb.titulo. Fines. Sect. 137. Cromptons Iurisd. fol. 194. Britton. cap. 29. Perkins seosments. 231. And Petrus Bellugain speculo Princi-

pum. Rub. 46. versiculo, Restat videre num. 9. vseth this word Terratenentes in the same signification. See Land tenents. Yet I have heard some learned in the lawe say, that the Tertenent, is the tenent in free, or copyhold, according to the custome of the maner, and opposite to tenent for terme of yeres. One-

Ters, is a certaine measure of liquide things, as wine, oyle, &c. conteining the fixth part of a Tunne. anno 32. H. 8. cap. 14. or the third part of a pipe.

Testament, (sestamentum.) See

Will.

Testasum, is a writ that seemeth especially to lye against great personages of the realm, whose bodies may not be medled with in actions of dept. And therefore if the Shyreeue return, (nihil habet in balliva mea) in a case of execution, another writ shall be fent out into any other Countie, where such personage is thought to have whence to fatisfie, which is termed a Testatum, because the Shyreeue hath formerly teltified, that he found nothing in his Bayliweeke to ferue the turne. See Kitchin in his Returnes of writs. fol. 287.b.

Teste, is a word commonly vfed for the last part of any writ: so called, because the very conclusion of energy writ wherein

the date is contained, beginneth with these words, (teste mento, erc.) If it be an originall writ, or if judiciall, teste Thom. Flemming, or Edovardo Cooke, according to the Court whence it commeth. Where I may note by the way, that in Glanvile lib. pri. cap. 6. 6 13. 6 lib. 2. cap. 4. I find the forme of an originall writ in the last clause to be (tese Ranulpho de Glanvilla apud Clarindon, &c. And divers times in the Register orig. Teste custode Anglia: as namely, in the title Prohibition. fol. 42. a. and Confultation, fol. 54. b.

Thanus, is a made Latin word of the Saxon(thegn) which commeth of (thenian. i. alicui ministrare.) It signifieth sometime a Noble man, somtime a free man. sometime a Magistrate, somtime an Officer, or minister. Lamb. in in his Explication of Saxon words. verbo Thanus. See the place. See vavasour. M. Skene de verbor. fignif. laith, it is the name of a dignitie, and appeares to be equall with the sonne of an Earle. And Thanus was a free holder holding his lands of the King. And a man not taken with the fang (that is, with the maner, as we fay,) accused of theft, no sufficient proofe being brought against him, must purge himselfe by the oath of 27. men, or of three Thanes. Tha-

Ttt 2 nagium

nagium Regis, signisteth a certaine part of the Kings lands, or propertie, whereof the rule and gouernement appertaineth to him, who therefore is called Thanus. For Domania Regis, and Thanagia, idem signisticant. It is a Dutch word: For (teiner) significant a seruant, and teinen to serue. And thane is likewise a seruant, and under-thane, an inferiour thane or subject. Thus farre M. Skene.

Thack tile. anno 17. Ed. 4. cap. 4. otherwise called plaine tyle, is that tile which is made to be layed vpon the side, and not vpon the rudge of a tyled house. anno 17. Ed. 4. cap. 4.

Theam. See Team.

Theft (furtum) is an vnlawfull felonious taking away of another mans moueable, and personall goods against the owners will, with an intent to steale them. West. parte 2. symbol. titulo Inditements. sett. 58. where also he faith, that theft is from the person or in presence of the owner, or in his absence. Theft from the person or in presence of the owner, is of two forts: the one putting the owner in feare, the other not. Idem, endem, fect. 59. The former is properly called Robberie. ibid. fect. 60. The new expounder of lawe termes, verbo Larcenie, divideth theft into theft so simply called, and petit or litle theft. Whereof the one is of goods about the value of twelue pence, and is felonie, the other vnder that value, and is no felonic. But see Felonie.

Theftbote, is made of (theft) and (boote) i. compenfatio, and fignifieth properly the receiving of goods from a theefe, to the end to fauour, and maintaine him. The punishment whereof is raunfome and imprisonment. and not loffe of life and member. Stampf. pl. cor. lib. prim. cap. 43. and the myrror of Inflices. lib. 2. cap. des peches criminels al sute le Roye. And yet he there maketh mention of a Record alledged, which testified a judgement of life and member given in this cafe.

Theque. See Thanus, and Thin-

gus.

Them. See Team. It signisteth acquietantiam amerciamentorum sequela propriorum serverum. Fleta lib. prim. cap. 47. 5. Theme.

Thelonium. See Tholle, and

Tholonium, and Tolle.

Theolonio rationabili habendo pro Dominis habentibus Dominica Regis ad firmam, is a writt, that lyeth for him, that hath of the Kings demesne in see ferme, to recouer reasonable tolle of the Kings tenents there, if that his demesn haue bene accustomed to be tolled. Register origin.

fol. 87. b.

Thingus. Cromptons Iurisd. fol. 197. seemeth to be vsed for the Saxon Thegne. See Thanus. His words are these, speaking of a Charter or Graunt made by a Lord of a Forest. Scietis me concessis omnibus militibus, & omnibus thingis, & omnibus liberè tenentibus, qui manent in Foresta mea de Honore de Lancaster, quod possunt, & c. Fleta writeth it Tlem, & saith, quod significat liberum.

Then, significat servum. Fleta ls. prim. cap. 47. See Thanus, and

Thingus.

Thridborow, is vied for a conftable. anno 28. H. 8. cap. 10. which also is noted by M. Lamberd in his Tractate intituled: The dutie of Constables, pag. 6. which seemeth to be corruptly vied for the Saxon (freeborh. i. ingenuus sideiussor,) or (freborhesheofod. i. vas primarius) Idem. in his explication of Saxon words. verbo. Centuria.

Thrid with hawan man (trium nostium hosses) who if he did any harme, his host, by the lawes of Saint Edward, and of the Conquerour, was answerable for the harme. Rogerus Hoveden parte poster. Suorum annal. fol. 345.

Thokei of fish, anno 22. Ed 4.

cap. 2.

Tholl (Thollonium) est libertas emendi, & vendendi in terra sua. Archamom. Lamb. fol. 132. See Toll.

Thraue of corne, anno 2. H. 6.ca.
2. confisteth of two shookes: and every shoke containeth 6. sheaves. It seemeth to be a word proper to the north parts.

Thrimfa, commethof (Threo) that is three, and fignifieth a peece of money of three shillings. Lamb. expla. of Saxons words.

verbo Thrimfa.

Tilsen of saten, anno 1. H. S. ea.

14

Timcell, commeth of the French (Estincelle, i. scintilla) or the verb (Estinceller. i. scintillare) It signifies with us a stuffe or cloath made partly of silke and partly of gold or siluer, so called because it glistereth or sparkleth like starres.

Tiffu, is a French word fignifing as much as (would Cloth of Tiffue, with vs cloth of filke and filuer, or of filke, and gould would togither.

Tithe (Decime) seemeth to be an abbreuiat of (tything) being the Saxon (Teothung) a little altered, which significantly being altered, which significantly because of the saxon words. verbo. Decuria. It significantly our common lawe, the tenth part of all fruites prediall, or personall, which be due to God, and so consequently to his Minister, toward the recompence of his paines taken in instructing his charge, how to

Ttt 3

live

line after Gods commandements, and his continuall intercession that he doth or ought to make vnto God for their both spirituall and temporal bleffings Leuit. cap. 27. versu. 30. I say the tenth part, though Conarruvias with other learned Canonists and Scholemen, hold the rate of tithes, not to be necessarily the tenth part of the fruites by the morall lawe of God. Yet the beter and more theologicall opinion is, that they are all deceived, and that from their errour hath sprong much wrong to almighty God, and greate mischief to his church:& that by the law of God and nature no contrary custome ought to last any longer, then the parson and parishioner shall both thinke well of it. Whereforethose customes of paying a halfepeny for a lambe, or a pennie for a calfe by fuch as haue vnder seuen in one yeare, how long so ever it hath indured, is but very vnreasonable in these daies, when both lamb and calues are growne foure times deerer, and more then they were when this price was first accepted. And therefore no man dischargeth well his conscience in this point that paieth not duly the tenth of euery Lamb, euery calfe, and euery otherthing tithcable. For

by this course the minister tareth well or euill in a proportion with his parishioner, as it pleaseth God to giue increase, whereas by any other order the one or the other shall sinde want of indifferencie, as the prices of things shall rise or fall.

Tithing (Tithingum) is the Saxon word Teothung for the which fee (Tithe) It fignificth (as M. Lamb. faith in his dutie of Constables) the number or company of ten men with their families cast, or knit together in a societie, all of them being bound to the King for the peaceable and good behauiour of each of their societie. Of these companies was there one cheife or principall person, who of his office was called (Toothung man) at this day in the West parts (Tithingman) But now he is nothing but a Constable. For that old discipline of Tithings is left long fithence. It fignifieth also a court, anno 23.Ed. 3. cap.4. & anno 9. H. 3. cap. 35. See Chiefe Pleage and Frank pleage, and Decennier. Tithing is vied for a Court. Magna charta, cap. 25.2nd Merton, cap. 10.

Todde of wooll, is a quantitie conteining 28. pound in weight,

or two Stone.

Tost (Tostum) is a place, wherein a inesuage hath stoode west.

West.parte 2. symbol. titulo Fines lett. 26.

Toile, commeth of the French (Toile, i. tela) and fignifieth with vs a net of cord to compasse or take Decre.

To lange and to bred. See Bred. Tolle (Tollere) as it is a verbe fignifieth to defeate or take away, anno 8. H. 6. cap. 9.

Toll, alias Tholl (Tolnetum, alias Theolonium) is a Saxon word. and hath in our common lawe two fignifications: first it is vsed for a libertie to buy and fell within the precincts of a maner. Lamb. Archainom. fol. 132. which feemeth to import so much as a faire or market. The words be these: Thol (quod nos dicimus Tholonin est (cilicet quod habeat libertatem vendendi co emendi in terra Gua. In the fecond fignification it is vsed for a tribute or cufrome paid for passage, &c. as in Bracton. Si cui concedatur talis libertas quod quietus sit de Theolonio & consuetudinibus dandis per totum Regnum Anglie in terra & mari, & quod Theo!onium & consuetudines capiat infra libertatem suam de ementibus & vendentibus, oc. lib. 2. cap. 24. num. 3. But even there in the end of the second number he hath this word, Toll(as it feemeth) in the former fignification also, which by these words about written folowing a little after, he inter-

preteth to be a libertie as well to take as to be free from Tolle. The made Latine word (Theolonis um) Cassanaus in consuetud . Burgund.pag. 118. deriueth a Tollendo) but I rather thinke it commeth from the greeke ((extina) or ((enovera) i. vestigalium redemptio, vel etiam vectivalum exactio) Fleta hath these words of it: Tol significat acquietantiams Theolonisubia; in Regno, lib. pri. cap. 47. M. Skene de verb. signifi. verbo Toll, faith it is a custome, and that it commeth from the Greeke word of the same signification (Exes) and that he who is infeoffed with Toll, is custome free, and payeth no customer which is manifest by fundry ould bookes, wherein it is writen: Toll, boc est qued vos es homines vestri de toto homagio vestro sint quieti de omnibus mercantus, & de Tolneto, de omnibus rebus emptis & venditis. Thus farre he. Kitchin fol . 104 maketh mention of Tolle through, and Toll Trauers, his words be to this effect. Cuttom or prescription to have Toll through in the high way, is not good: for it is against the common right. But to have prescription of Tolle Trauers, is good. In which place the difference betweene the one, and the other the newe expositour of lawe terms faith to be, that tolle trauers is that mony, which

is taken for passing ouer a privace mans ground. But this author seemeth to differ from Kitchin touching the lawfulnes of tollethrough, faying that by reason of a bridge prouided at the cost and charge of the towne, for the ease of trauellers, he thinketh it refonable, that tolle through be exacted toward the maintenance thereof: which writerallo maketh mention of tolle turn; and that he defineth to be tolle paide for beaftes dri. uen to be fold, though they be not fold indeede. Where I think. he must meane a tolle paide in the returne homeward from the faire or market, whether they were driven to be fold. Plowden, casu Willion, fo. 236. agreeth in this definition of tolle crauers. And this the Feudists call parangariam, defining it to be sumptus & labores ferendi referendine alicuius cansa a principe impositi, cum non per viam, sed alio versum iter suscipitur. 1.2. Co. de Epifc. & cleri. a graco (acad) è peia) i. transitus per viam transversam. Gothofred ad l. 4.5. I. T. de vetera. I finde in Andrew Horns mirrour of Instices, lib. I. cap. des articles, &c. that by the auncient lawe of this land, the buyers of corne or catell in faires or markets, ought to pay tolle to the Lord of the marker, in testimony of their contract there lawfully made in open market: for that privile contracts were held vnlawfull.

a Toloneum or Breve de'essends quietum de Toloneo, is a writ that lyeth in case, where the Citizens of any Citie, or Burgesses of any towne, be quit from tolle by the graunt of the kings predecessiours, or prescription: which you have at large in Fuzh. nat. br. fol. 226. See Telonum.

Tolt (Tolta) is a writ whereby a cause depending in a court Baron, is removed into the county court. Old. nat. br. fol. 2. The reason of the appellation scemeth ro come from the verb (Tollo) v. Cooke, lib. 3. in prasatione ad lectorem.

Tonne. See Tunne.

Tonnage, is a custome or impost due for merchadise brought or caried in tonns and such like vessels, from or to other nations after a certain rate in enery tonne anno 12. Ed. 4. ca. 3. anno 6. H. 8. ca. 14. Granno pri. Ed. 6. cap. 13. annopri. Iacobi, cap. 33. I have heard it also called a duty due to the Mariners for vnloading their ship arrived in any haven after the rate of every tonne.

Torny. See Turney.

Totted anno 42. Ed. 3. cap. 9. 6 anno 1. Ed. 6. ca. 15. is a word vsed of a dept, which the forein Apposer or other officer in the Exchequer noteth for a good

dept

dept to the King by writing this word (Tot) vnto it.

Tourn. See Turn.

Tout temps prist & uncore est: that is to fay in English, Alway ready and is at this present: this is a kinde of plee in way of excuse or defence vnto him that is fiewed for withhoulding any dept, or duty belonging to the plaintiffe. See of this Brooke his Abridgement, fol. 258.

Traile baston. See Iustices of tri-

all baston.

Traitor (traditor, proditor) See

Treason.

Transgreffione, is a writ, called commonly a writ or action of trespas. Of this Fitzherbert in his Natura bre: hath two forts: one Vicountiel, so called, because it is directed to the Shyreeue, and is not returnable but to be determined in the countie : The forme whereof different from the other, because it hath not these words : Quare vi & armis, &c. and this see in Fizh. nat. br. fol. 85. G. The other is termed a writ of trespasse vpon the case, which is to be fiewed in the common Bank, or the Kings Bench, in which are alwaies vsed these words vi & armis, &c. And of this you have Fitzh. nat. br. fol. 92. E. See Trepas. See the diuers use of this writ in the Register originall, in the table.

Transcript, anno 24. & 35. H. 8.cap. 14.is the copy of any originall writen againe or ex-

emplified.

Transcripto Recognitionis facta coram Insticiariis itinerantibus, &c. is a writ for the certifiing of a Recognisance, taken before Iustices in Eire, into the Chauncery, Register orig fol. 152. b.

Transcripto pedis finis levati mittendo in Cancellariam, is a Writ for the certifing of the foote of a fine levied before Inflices in Eyre, &c. into the Chauncerie, eodem.fol. 169. & Register Indici-

all, fol. 14.

Travers, cometh of the French (Traverser. i. transfigere) It signifieth in our common lawe fometime to denie, sometime to ouerthrow, or vndoe a thing done. Touching the former fignification take these words in Wests simbol. parte 2.titulo Chauncery, feet . 54 . An answer (faith he, speaking of an answer to a bille in Chauncerie)is that, which the Defendant pleadeth or faith in barre to avoide the plantiffes bille, or action, either by confession and avoiding, or by denying and traverfing the materiall parts thereof. And againe, fectio. 5 5. A replication is the plaintiffes speech or answer to the Defendants anfwer, which must affirme and persiew his bille, and confesse

VvvI

and avoide, deny or traverse the Defendants answer. And the formall words of this trauers are in Lawyers French (fans ceo) in Latine (absque boc) in English (without that.) See Kitchin fol. 227. titulo Affirmatine & Negatime. In the fecond fignification I find it in Stammfords prerog cap. 20, through the whole chapter, speaking of trauerfing an office: which is nothing elfe, but to proue that an inquifition made of goods or lands by the Eschetour, is defective and vntruly made. So trauerfing of an Inditement, is to take iffue yoon the chiefe mater thereof: which is none other to fay, then to make contradiction, or to deny the point of the Enditement. As in presentment against A. for a high way ouerflowne with water for default of scowring a ditch, which he and they, whofe estate he hath in certain land there, have yled to fcower and cleanse. A. may trauerse either the mater, viz. that there is no high way there, or that the ditch is sufficiently scowred: or otherwise he may trauers the cause, viz that he hath not the land, &c. or that he and they whose estate. &c. have not vsed to scoure the dirch. Lamb. Ejrenarcha. lib. 4. cap. 13.pag.521 522. Of Trauers fee a whole chapter in Kitchin, fol. 240. See the new booke of Entries. verbo,

Treason (traditio, vel proditio) commeth of the French, trahifon, i. proditio) and fignifieth an offence committed against the amplitude and maieftie of the commonwealth. West parte 2. Symbol. titulo Inditements. (ett. 63. by whom it is there divided into High treason, which other call altam proditionems, and petit treason. High treason he defineth to be an offence done against the fecuritie of the common wealth, or of the Kings moftexcellent Maiestie: whether it be by imagination, word, or deed: as to compasse or imagine treafon, or the death of the Prince, or the Queene his wife, or his fonne and heyre apparent, or to deflowre the Kings wife, or his eldest daughter vnmaried, or his eldest sonnes wife; or leuie war against the King in his Realme, or to adhere to his enemies, ayding them, or to counterfeit the Kings great Seale, prinie Seale, or money, or wittingly to bring false money into this Realme counterfeited like vnto the money of England, and vtter the same : or to kill the Kings Chaunceler, Treasurer, luface of the one bench, or of the other, Iustices in Eyre, Iustices of Affife, Iuftices of eyer and terminer, being in his place, & doing

of his office. anno 25. Ed. prim. ca. 2. or forging of the Kings feale manuell, or priny fignet, priuv scale, or forrein coine current within the Realme anno 2. Mar. cap. 6. or diminishing or impairing of money current, an. 5. Elizab. ca. 11. & anno 14. El. ca. 2. & 18. Elizab. ca. pri. and many other actions which you may read there and in other places particularly expressed. And in case of this treason a man forfeiteth his lands, and goods to the King onely. And it is also called treason Paramount. anno 25. Ed. 3. cap. 2. The forme of Iudgement giuen vpon a man convicted of high treason is this. The Kings Sergeant after the verdict deliuered, craueth Iudgement against the prisoner in the behalfe of the King. Then the Lord Steward (if the traitour haue bene noble) or other Judge (if he be vnder a peere) faith thus: N. Farle of P. For fo much as thou before this time haft bene of these treasons indited, and this day arraigned for thee fame, and put thy felfe ypon God and thy peeres, and the Lords thy peeres have found thee guilty, my Judgement is that thoushalt from hence be conueied vnto the Tower of London, whence thou cameft, and from thence drawne through the middest of London to Tiburne,

and there hanged: and living thou shalt be cut downe, thy bowels to be cut out and burnt before thy face, thy head cut off, and thy body to be divided in source quarters, and disposed at the Kings Maiesties pleasure: and God haue mercy vpon thee.

Petit treason is rather described by examples, then any where logically defined : as when a feruant killeth his mafter, or a wifel her husband, or when a fecular or religious man killeth his prelate, to whom he oweth faith and obedience. And in how many other cases petit treason is committed. See Cromptons Inflice of peace. And this maner of treason giueth forfeiture of Escheats to euery Lord within his owne fee anno 25. Ed. 3. cap. 2. Of treason see Bracton lib. 3. tract. 2. cap. 3. nu. pri. & 2. Treason compriseth both high and petit treason anno 25. Ed. 3. Stat. 3. cap. 4.

Treasure troue (Thesaurus inuentus) is as much as in true
French (Tresor trouue). i. treasure
found: and signifieth in our common law, as it doth in the Civile
law, idest, veterem depositionem
pecunia, cuius non extat memoria,
vt iam dominum non habeat. 1.31
5. prim. A de acquir. rerum Dom.
Neere vnto which definition
commeth Bracton. lib. 3. tract.
2. cap. 3. num. 4. And this trea-

Vvv 2 fure

fure found, though the civill') lawe do giue it to the finder, according to the lawe of nature; yet the lawe of England, giueth it to the King by his preregative, as appeareth by Bra-Eton vbs supra. And therefore as he also saith in the fixth chapter, it is the Coroners office to enquire therof by the countrie to the Kings vfe. And Stawn. pl. cor. lib. pr. cap. 42. faith, that in auncient times, it was doubtfull, whether the concealing of treasure found were felonie, yea or not: and that Bracton calleth it grauem prasumptionem, & quasi crimen furti. But the punishment of it at these dayes, as he proueth out of Fitzh. Abridg. ment. pag. 187. is imprisonment, and fine, and not life and member. And if the owner may any way be knowne, then doth it not belong to the kings prerogatine. Of this you may reade Britton allo, cap. 17. who faith, that it is enery subjects part, as soone as he hath found any treafure in the earth, to make it knowne to the Coroner of the countrie, or to the Bayliffes, &c. See Kitchin also, fol. 40.

Treasurer, thesaurarius, commeth of the French (tresorier)i. quastor, presettus sisci) and signisticth an Officer, to whom the treasure of another, or others, is committed to be kept, and truly

disposed of. The chiefest of these with vs, is the Treasurer of England, who is a Lord by his office, and one of the greatest men of the land: vnder whose charge and government is all the Princes wealth contained in the Exchequer, as also the checke of all Officers any way employed in the collecting of the Imposts, tributes, or other reuenewes belonging to the Crowne. Smith de Repub. Anolor. lib. 2. cap. 14. more belonging to his office, fee ann. 20 Ed. 3. cap. 6. & anno 31. H. 6. cap. 5. & anno 4. Ed. 4. cap. pri. & anno 17.einsdem. cap. 5. ef anno prim. R. 2. cap. 8. 6 anno 21. H. 8. cap. 20.6 anno prim. Ed. 6. cap. 13. Ockams Lucubrations affirme, that the Lord chiefe Iuflice had this authoritie in times past: and of him hath these words: Ifte excellens Seffer omnsbus, qua in inferiore vel superiore scacchio sunt, prospicit. Ad nutum ipsius qualibet officia subiecta desponuntur: sic tamen ut ad Domini Regis Vilit atem iust eperueniant. Hic tameninter catera videtur excellens, quod potest his sub testimonio (no breve Domini Regis facere fieri, vt de thesauro qualibet summs liberetur, vel vt computetur quod sibs ex Domini Regis mandato prenouerit computandum, vel & maluerit, breve fuum sub alsorum testimonio faciet de his rebus.

This

This high Officer hath by vertue of his office at this day, the nomination of the Escheatours veerely throughout England, and giveth the places of all customers, controllers, and searchersin all the ports of the Realme. He fitteth in the chequer chamber, and with the rest of the court, ordereth things to the Kings belt benefite. He with the Barons may by statute stall depts of three hundred pounds and vnder. And by commission from his maiestie, he with others joyned with him, letteth leafes for lives or yeares, of the lands that came to the Crowne by the disfolution of Abbeys. He by his office giueth warrant to certaine men to have their wine without impost. He taketh declaration of all the money payed into the Receipt of the Exchequer, and of all Receivers accompts.

Then is there a Treasurer of the kings houshold, who is also of the privic Councell, and in the absence of the Steward of the Kings houshold, hath power with the Controller and the Steward of the Marshalsea, without commission to heare and determine treasons, misprissons of treasons, murder, homicide, and bloudshed, committed within the Kings pallace. Stamps. pl. cor. lib. 3. cap. 5. In the statute

anno 28. Rich. 2. cap. 18. 6 anno 11. H. 7. cap. 16. mention is made of the Treasurer of Calis. In Westm. 2. cap. 8. of the Treafurer of the Exchequer. & anno 27. Ed. 3. fat. 2. cap. 18. 6 ann. 25. Eliz. cap. 4. Of the Treasurer of the Nauie, or Treasurer of the warres or garrisons of the Nauie. anno 39. El. cap. 7. Treafurer of the Kings chamber. anno 26. H. 8. cap. 2. 6 anno 22 eiusdem cap. 39. Treasurer of the warres. anno 7. H. 7. cap. prim. anno 3. H. 8. cap. 5. Treasurer of the Chauncerie. West. parte 2. symbol. titulo Fines. sect. 152. Treasurer of the Kings Wardrobe. anno 15. Ed. 3. stat. prim. cap. 2. & anno 25. einsdem, stat. 5.cap. 21. whose office you have well set foorth in Fleta, lib. 2. cap. 14. Treasurer of the Countic for poore souldiers. anno 35. Eliz. cap. 4. And most corporations through the kingdome, haue an officer of this name, that receiveth their rents, and disburseth their common expences.

Treate commeth of the French (traire. i. emulgere) and fignifieth in the common lawe, as much as taken out, or withdranne. As a Iurour was chalenged, for that hee might not dispend 40. pounds, and for that cause he was treate by the Statute. old na.br. fol. 159. that is, removed or discharged.

Vyv 3 Breade

Breade of treate, anno 51. H. 3. Statue of breade, &c. what it fignifieth, I cannot learne.

Trespas (Transgressio) is 2 French word fignifing as much as Mors obetus, excellus. The reafon whereof I take to be, because in interpretation it is a passage from one place or estate to another: for in Britton, cap. 29. I find trespassants for passengers. In our common law and language, it is vsed for any transgression of the lawe, vnder treason, felonie, or misprisson of treason.or of felonie, as may be gathered out of Stawnf. pl. cor. fol. 38. where he faith, that for a Lord of the Parlament to depart from theParlament without the kings licence, is neither treason nor felonie, but trespasse. And againe, fol. 31. faying, that where it was wont before the statute made anno prim. Ed. 2. called Statutum de frangentibus prisonam, that the breach of prison was felonie, if it were the Kings prison: it is fithence but trespasse, except the prisoner were committed for felonie. But it is most commonly vsed for that wrong or dammage, which is done by a private man to the King, as in his Forest, pl. cor. lib. 2. cap. 18. or to another private man. And in this fignification it is of two sortes: trespasse generall, otherwise termed, trespasse vi Garmis: and trespasse especiall.otherwife called trespasse vpon the case. And this seemeth to be without force. Termes of the Lawe. Action vpon the cafe, as appeareth by Kitchin, fol. 176. The former I take to be called generall, because it riseth from that generall ground in lawe. that whatfoeuer is done by any private mans humour vi & armis, is an offence. The later I call especiall, because Kitchin calleth the other generall: and another reason may be this, because it springeth from a particular case or fact, not conteined voder any other generall head. And theaction lying for this trespasse, is otherwise called an action vpon the case, as may be gathered out of diuers places under the title Trespasse, in Brookes his Abridgement. How to distinguish the forme of these writs or actions, See Fitz, nat. br. tol. 86. I. 87. H.I. In an action of trespasse, this is perpetuall, that the plaintiffe sieweth for dammages, or the valew of the hurt done vnto him by the Defendant. It feemeth an hard thing to distinguish these two kinds of trespasses so, as to be able to say when it is a trespasse vier armis, and when vpon the case: as may well appeare to him that shall peruse this title in Brooke. But this is to be left to the experiece of

of graue and skilfull pleaders. I find moreover in Kitchin fol. 188 that there is a trespasse locall, and trespalle transitorie: trespalle locall is that, which is so annexed to a place certaine, as if the Defendant ioyne iffue vpon the place, and trauers the place, onely by faying, Absque boc, that he did the trespasse in the place mentioned in the declaration, and averre it, it is enough to defeate the action. Trespasse transitorie is that, which cannot be defeated by the defendants trauers of the place, faying: without that I comitted the trespasse in the place declared: because the place is not materiall. Examples of both you have fet downe by Kitchin, in the place about named, to this effect: trauers by (Ab [que boc) of trespasse in batterie, or goods brought in, is transitorie, and not locall; as it is of trees cut, or herbes.

And therefore in trespasse transitorie the place shall not make issue, neither is it traversable: no more then is a trespasse vpon a case of an Assumption. Braston in his fourth booke, cap. 34. num. 6. divideth transgressione in maiorem & minorem: which place reade. See also great diversitie of trespasses in the new booke of Entries. verbo Trespasse.

Triall (triatio) is vsed in out

common lawe, for the examination of all causes civill or criminall according to the lawes of our Realme. Of this word Stamn. pl. cor. leb. z. cap. 26. writeth to this effect. There was a statute made prim. & fecund. Philip. & Mar. cap. 10. to this purpofe. And be it furder enacted by the authoritie aforesaid, that all trials hereafter to be had, awarded or made for any treason, shall behad and vsed according to the due order and course of the common lawes of this Realme, and not otherwise, &c. By this word (triall) faith Stawnf. in that place, some vnderstand as well the inquest that indicteth a man. as the enquest vpon the arraignment, that attainteth or acquiteth him. For these two make but one entire triall, that every man is to haue, when he is impeached of treason. But others have answered to this, that triall in common speech, is the triall that a man is to have, after he is indicted, and not before. For in lawe the inditement is nought, but the accufation against him, which he is to make answer vnto and that being tried, it either attainteth, or acquireth him. So that the triall is the iffue, which is tried vpon the Inditement, & not the Inditement it felfe. For that is no part of the thing which trieth, but the thing which

is tried, and the offence. And fois this word Triall under-Rood in the statute, anno 22. H. 8. cap. 23. where it faith thus. must be indighted within the shires or places, where they committed their offences, and also tried by the Inhabitants or feecholders. So he putteth a differen ce betwene Inditement and Triall as he dorh also afterward in these words: There to be indited and tried of their offences, &c. Thus far: Stawnf. Sir. Tho. Smith de Rep. Anglo. li 2. ca s. faieth, that by order and vsage of England, there are three trialls, that is . 3. waies and maners, whereby absolute, and definite sudgement is giuen: by Parlament, which is the highest, and most absolute. by battell and great Affise : which he scuerally describeth in 3. chapters following, though not so fully as the thing requireth . But of the great Affise, he speaketh at large in the 23. chapter of the same booke. And of these trials see more in Stampf.pl.cor.lib.2.cap.pri.2 & 3. whereof he deuideth the great Affise into two forts: one proper to Barons of the Parlament, which is by 20. or 18. of their Peeres: the other common to others of lower condition, le which is by 12. men, that be neighbours to the place where

the offence was committed, And of those you may read him at large in the saide chapters there following. See Twelne men. See the new booke of Entrise. verbo. Triall.

Tribing (Tribinga, vel Trithinga) seemeth by a place in Edward the confesiours lawes. fet out by M. Lamberd, nu. 34. to be the third part of a shire or prouince, otherwise called (Letb) which we now call (Leete). The fame lawe doth M. Camden also mention, pag. 102. & 102. This court is ahoue a court Baron, and inferiour to the Shire, or countie. This word is also vsed in the sentence of excommunication vpon the great Charter and charter of the Forest. denounced in the daies of Edward the first, as it is latined in the booke called pupilla oculi. parte 5. cap. 22. A. I. in these words: Visus autem de franco plegio sic fiat, sc: quod pax nostra teneatur, & quod Tribinga integra sit, sicut esse consueuit, &c. Of this Fleta lib. 2. cap. 61.5. final. writeth thus; Sciendum est quod alex potestates erant super Wapentakia, qua Tritinga dicebantur, eo quod erat tertia pars provincia, qui verò super eas do. minabantur, trithingreves vocabantur, quibus deferebantur cause qua non in Wapentakiis poterant definiri in Schiram Sicg, quod vocatur

Hun-

Hundredum, iam per variationem locorum et idiomatis, Wapentakie appellatur, & tria vel quatuor vel plura Hundreda solebant trithinga vocaris & quod in trithing is non poterant diffiniri in (biram .i. in comitatum deferebatur terminandu. Modernis autem temporibus pro uno & code kabentur apad homines Hundreda Watentakia er trithinga Learne whether those divisions in Yorke-shire called ridings, be not quasitrithings. Of this Roger Houseden parte post. Suorum annal. fo. 346.6. hath the same words in effect.

Treswell of double soled shooes, anno 2.6 3. Ed. 6.cap. 9. which as I have heard should rather be written creswel, signifieth the broad edge or verge of the

shoe sole round about.

Trinitie honse, is a certaine house at Dept ford which belongeth to a companie or corporation of sea faring men that have power by the Kings Charter to take knowledge of those that destroy sea markes, and to redresse their doings, as also to correct the faults of saylers, &c. and to take care of divers other things belonging to navigation and the seas vanno 8. Elizab. sa. 13. Anne 35. eiusdem, ca. 6.

Trink, is a kind of net to fish withall. anno 2. H.6. cap. 15.

Triours, be fuch as be chosen

ther a challenge made to the panell, or any of the panell, be iust yea, or not. Brooke titulo. Chalenge. f. 122. & ould na. br. f. 158.

Tritis, alias Triftis, is an immunitie from that attendance, in the forest, whereby every man dwelling in the forest, is tyed to be readie, houlding of a Greyhound, when the Lord of the Forest is disposed to chace within his Forest, at such place as he shall be appointed, or els to be amerced for dis default. Mamnood parte pris of his forest lawes, pag. 86. and Cromptons Iurisdict. fol. 192.67 197.

Tronage (Tronagium) is a kind of tolle, Westm. 2. cap. 25. anno 13. Ed. 1. taken (as it seemeth) for weying. For I find in Fleta li.2. cap. 12. §. Item vinus that trona is a beame to weigh with.

See Weight.

Trover, commeth of the French (Trowver. i. Invenire) It fignifieth in our common lawe, an action which a man hath against one that having found any of his goods, resusted to deliver them vpo demaund. See the new book of Entries ver. Trover.

Troy weight (Pondus Troia, See

Weight.

Tumbrell (Tumbrellum) is an engine of punishment, which ought to be in every libertie that hath view of frank pledge,

Xxx, for

for the coertion of skowldes and vnquiet women. Kitchin. fo. 13.a. Newe booke of Entrus. Franchise 2. or One warrante. 1. See Cuching stoole.

Tunne, is a measure of oile or wine conteining twelve score and twelve gallons, anno 1.
R.3. cap. 12. that is 4. hoss-

heads.

Tunnage. See Tonnage.

Turbarie (Turbaria) is an interest to digge turves vpon a common. Kitchin, fol. 94. old. nat.br. fol. 70. It commeth of the rude Latine word (Turba) which is wied for a turfe. Lynd, in provin.de decimis cap. sinali.

Turmerick (Turmerica) is a certaine roote of an herb growing in Arabia, as I have bene informed, very wholfome for divers diseases in horses, and sometime vsed for man also in the case of seandes. It is reckoned among the garbleable drugs anus 1. Iaco. ca. 19.

Turne (Turnum) is the Shyreeues court kept euery yeare twice: onceafter Easter, and againe after Micheelmas. Magna charta cap. 35. and that within one moneth after each feast, anno 3. Ed. 3. 6.55. from this court are exempted onely, Archbishops, Bishops, Abbots, Priors, Earles, Barons, all religious men, and women, and all such as haue

Hundreds of their owne to be kept. And these are not bound to appeare there except their apparence be especially required ypon some extraordinary cause. anno 25. H. 3. cap. 10. and Bruton.cap. 29. It seemeth to be called the Shyreeues Turn of the French word (Tour .i. ambitus. circuitus, vicissitude) and is of Britton called Tour cap. 61. Sub fine capitis, as if we would fay (The Shyreoue his course) for (as Britten noteth in the faid 29. chapter) that which before the Shyreeue, is called the Shyreeues Turne, is called in the court of Fraunchises and Hundreds, the view of Frank-pledge: wherein inquirie is especially made of fuch as be not in any dozin. with whome Fleta agreeth: And by Fleta it appeareth that this Turn was the Shyreeues course to keepe his court in euery Hundred. lib . 2. cap. 52. in princip. So that as the inferiour courts had their times to take knowledge of those, and other causes belonging to their cognisance: So the Shyreeue had his course or turne to doe the like at these two seuerall seasons. That if there were any defects in them, it might be redressed in these, and Gods peace and the Kings fo much the more carefully observed. This, as Lamberd faith, was of old called

also the Shyreeues moote, tib. 4.cap. 4. In this court (as Britton faith vbisupra) the Shyrceue causet tobe found out 12. of the most sage, loyall and sufficient men of all the Hundred (for he kept his turne twice every yeare in each Hundred. Magna charta, cap. 35. & Britton vbi (upra) whome he charged voon their oathes, to prefent the truth touching the articles ministred vnto them, and fet downe by Britton in the fame chapter. This done he put all other to their oathes, according to their dozins and villa. ges, truly to prefent vnto the tormer twelve all things concerning fuch articles, as by them they should be asked of. But fithence the Hundred courts are all called to the county by the statute anno. 14:Ed.3.cap 3. Statut prithese Turnes be likewife kept in one cheife place of euery shire, and not seuerally in cuery Hundred, as before they were. Of this you may reade more in Britten or in Cromptons Iurifdiction fol. 230. and in the Marrour of Instices, lib. pri cap. de Turnescry and and daspolatio

Turney (Torneamentum) conmeth of the French (Tourney, i. Decurforium) It fignification artiall exercise of Knights or Souldiers fighting one with another in disport, and is thus defin ed. ca: felicis Extra de Torneamentis Torneamenta dicuntur Nundine vel ferie in quibus milites ex condicto convenire. & ad oftentationem virium suarum, & audacia temere congredi folent . This word is vied in the statute, anno. 24. Henric. octan. capit . 13 . and as I have heard. it fignifieth with vs in England those combats, that are made with arming fwords on horfebacke . And I thinke the reason of the name to proceede from the French (Tourner . i. vertere) besause it confisteth much in agilitie both of horse and man.

Turnovececomitum, is a writ, that lyeth for those that are called to the Shyreeues turne out of their owne Hundred. Register orig. fol. 174.

Tuain nishes gest. (hospes duarum nottium) Roger Houeden,parte poster suorum annalium, fol. 345.

b. who if he did harme to any, his hoste was not aunswerable for it, but himselfe. See Thrid ni-

thes bawan man.

Twelve men (Duodecim homines legales) is a number of twelve persons, or vpwards to the number of 24. by whose discretion all tryals passe both in civill and criminall causes, through all courts of the common law in this Realme. First for civile causes, when proofe is made of the

Xxx 2 mater

mater in question, as the parties and their councell thinke good. on both fides, the point of the fact, that they are to give their verdict of, is delivered likewife vnto them, which we call the iffue: and then are they put in minde of their oath formerly taken, to doe right betweene party and party, and fo fent out of the court feuerally by themselues to consider vpon the evidence of both fides, vntill they beagreed; which done they returne to the court againe, and deliver their verdict by the mouth of the foreman. And according to this verdict, Judgement afterward passeth, either condemnatorie for the plantife, or absolutory for the Defendant. These 12. be called 12. milites. Glanuile, lib. 2. cap. 14. 6 15. and fo be they in Bracton divers times: but that word is altered .

In causes criminall there be two sorts of Enquests, one called the graund Enquest, and the other the Enquest of life and death. The graund Enquest is so called, either because it consistent commonly of a greater number then 12. as of 24.

18. or 16. at the least, or els because all causes criminall or penall first passe through them: whereas the other Enquest is essentially appointed for one or

few maters touching life and death, committed to their considerations. Those of the grand Enquest are also called by Bra-Eton 12. milites lib. 2. tracta. 2. cap. pri. nu. 2. because they were wont to be Knights, as it fee. meth and not inferiours, except fo many knights could not be found. Idem codem.num. 1.in fine. And their function is to receive all presentments made vnto them of any offence, and accordingly to give their generall opinion of the presentment by writing either these words (Bella vera) vpon the bille of presentment, which is an Inditement of the party presented: or els this word (Ignoramsus) which is an absoluing of him. Now as criminall causes be of two fortes. either capitall touching life and member, or finable: so is there a double course of these Inditements. For in causes onely finable, the party indited must either trauers the Inditement by denying it and foit is referred to a petit Iury, whereby he is either connicted or discharged of the crime, or els he confessing it, the court setteth his fine vpon his head wirhout more worke. But in maters of life and death, the party indited is commaunded to hold vp his had, & afwer(quilty) or (not guilty) if (guilty) he flandeth convicted by his owne con-

teffi-

fession: if (not guilty)he is farder referred to the Enquest of
life and death: which consider
vpon the proofe brought against the prisoner, and accordingly bring in their verdict,
(Guilty) or (not Guilty) So is he
iudged to dye, or deliuered by
the court. Of this read more in
Inditement. Assis, Iury, See the
statute anno 35. H. 8. cap. 6. &
37. einstem cap, 22. & anno 2.
Ed. 6 cap. 32. & an. 5. El. ca. 25.

Vacation (vacatio) hath an efpeciall signification in this kingdome, being vsed for all that time respectively which passeth betweene terms and terms at London. And when such times begunne and ended in our anneesters daies, see Roger Hovedens annals parte posteriori fo. 343.a. where you shall find that this intermission was called (pax Dei & ecclesse.)

Vaccarie, alsas vacharie (vaccaria, alsas vacheria) semeth to be a house to keepe kine in, Fleta lib. 2. cap. 41. §. Item inquiratur 12. and Cromptons Iurisa. fol. 194. in these words: without warrant no subject may have within the Forest a vacarie. But in the statute anno 37. H. 8. cap. 16. I finde vacharie to be, as it were a speciall proper name of a certaine quantitie and compasse of ground within the so-

rest of Ashedowne.

Valence (valentia, valor) The word is in it selfe plaine enough: But I cannot omitte one place in M. Weft. parte. 2. Symbol. titulo Indetements, lect. 70. V. W. touching the difference betweene value and price. These be his words, And the value of those things, in which offences are committed, is vsually comprifed in Inditements, which feemeth necessary in theft, to make a difference from perit larceny: and in trespas, to aggravate the faulte, and increase the fine. But no price of things fere natura, may be expressed, as of deere, of hares &c. if they be not in Parks and warrens, which is a liberty anno 8. Ed. 4. fol. 5. nor of charters of land . And where the number of the things taken are to be expressed in the Inditement, as of yong Doues in a Doue house, young haukes in a wood, there must be saide (pretis) or (advalentsam) but of divers deade things (ad valentiam) and not (pretii) of coine not current, it shalbe (pretii) but of come current, it shall neither be saide (pretn) nor (ad valentiam) for the price and value thereof is certaine. But of counterfeit coine, shall bee faid (ad valentiam) and in conterfeiting of coine shall not be faid (decem libras in dena-XXX 3

riis Domina Regina) nor (in pecunia Domina Regina) but (ad instar

pecunia Domina Rigma).

Valour of mariage (Valore mariagii) is a writthat lyeth for the Lord, having profered covenable mariage to the Infant, without disparidgement, against the Infant, comming to his yeares, if he resuse to take the Lords offer. And it is to recover the value of the mariage, Regist. orig. fol. 164.old. nat. br. fol. 90.

Variance, commeth of the French (varier.i. alter are)it fignifieth in the common lawe, an alteration, or change of condition after a thing done. For example, the communality of a towne make a composition with an Abbot. Afterward this towne by a graunt from the king obteineth Bayliffes. This is a variance, and in this case, if the Abbot comence any fuite for breach of the compolition, he must varie from the words of the communalty fet downe in the Composition, and begin against the Bayliffes and the Communalties. Brooke tit. Variance.fol. 292.It is also vied for an alteration of fome thing formerly laide in a pice, which is calilier knowne what it is, then when it may be vied as it appeareth by Brooke through she whole title aforefaide: See variance in the newe booke of

Entries.

Vasfall, (vasfallus) fignifieth him, that holdeth land in fee of his Lord, Hot. verbo Fendal: we call him more viually a tenent in fee: whereof some owe fidelitie and feruice, and are called vallalli inrati : fome that owe neither, and are called val-(alli insurati. But of this later fort, I thinke that in England we have not any. Of these thus writeth Hotoman in his difputations vpon the Feuds, cap. 3. Proprie is valla dicitur, qui ab Imperatore regale fendum accepit, val-Callus autem Exchopisinos diminutivo nomine qui ab illo feudale beneficium adoptus est: quali qui in vassi fide & clientela est &c. M. Skene de verbor. signif. verb. Ligentia, saith, that vasfalles is divided into bomologum, of non homologum. Homologus is he that sweareth service with exception of a higher Lord: and non homologus, is he that sweareth with out exception, all one with Ligeus. And the same author verb. Vaffallus, faith, that it is vaffallus, quafibalfallus, edeft, inferior focus. From the French (bas. i. humilis, dimiffus) and the Dutch word (gefel. i. focius:) his reason is, because the vasfall is inferior to his mafter, and must serue and reverence him: and yet he is in maner his companion, because each of them is obliged

one to the other. He faith farder . out of Cwiacius, lib. prim. de Fend. that leades, leades, fideles, homines nostri, feudatarii, minsteriales, beneficiarii, beneficiari, vallalli, fignific almost all one thing. And a litle after he faith thus: In the lawes of the Feuds, vallallus is called fidelis, quia fidelitamminrat. Amongst vassals the first place of dignitie is given to them, that are Duces, Marchiones, Comites, and are called Capitanei Regni. The second is granted to Barons and others of like estate, and are called Valvasores Maiores. The third to them who are called Gentlemen or Nobles holding of Barons, which also may have under them vasfals that be Gentlemen. And fuch vaffals holding in chiefe of Barons, are called Valva (ores minores. And they which hold of Gentlemen, are called vaffalli, valvaffini, fen minimi valvafores. But in this Realm (he speaketh of Scotland) they that hold of Barons, are called Milites, and they that hold of them, are called subvassores. Thus farre M. Skene.

Vasto, is a writ that lyeth for the heire against the tenent for tenne of life or of yeares, for making waste, or for him in the Reuerston or Remainder. Fitzb. nat. br. fol. 55. Regist. orig. fol. 72. & 76. and Regist. Iudic. fol. 17.

21. 23. & 69. v. anno 6. Ed. pri-

Vava Sour (vava for alias valvafor) is one that in dignitie is next vnto Baren. Camden Britan. pag. 100. Bracton lib. prim. cap. 8 faith thus of this kind of men. Sunt & alis potentes sub Rege, qui disuntur Barones, hos est, robur belli: sunt & alis qui dicuntur Vavasores, viri magna dignitatis. Vavasor enim nibil melius dici poterit, quam vas sortitum ad valetudinem. Iacobutius de Franchis in praludio Fendorum. tit. prim. num. 4. Gc. calleth them valuafores, and giueth this reason of it: Quia assident valva i porta Domini in festis, in quibus consueuerunt homines curtizare & eis renerentiam exhibere, propter Beneficium eis collatum, sient libertus patrono: M. Camden, in his Britan, pag. 108, hath these words of them. Primus etiam Normannorum temporibus, & Thani proximi à Comitibus in dignitate consobantur. Et valvasores maiores (sillis qui de fendis scribunt credimus) indem fuerunt Rarones.

Venditioni exponas, is a writ Iudiciall, directed to the Vinder-shyrecue, commaunding him to sell goods that he hath formerly by commaundement taken into his hands, for the satisfying of a judgement given in the kings Court. Register Indicial. fol...

Venire

Venire facias is a writ Iudicall. and goeth out of the Record, lying where two parties plead and come to iffue. fc: vpon the faying of the country. For then the party plaintiffe, or Defendant shall have this were directed to the Shyreeue, that he cause to come twelue lawfull men of the same country, to say the truth ypon the faydiffue taken. And if the Enquest come not at the day of this writ returned, then shall goe a babeas corpora, and after a distresse vntill they come. old. nat. br. fol. 157. See how diuerfly this writ is vsed in the table of the Register Indiciall. There is also a writ of this name, that is originall, as appeareth in the Register orig. fel. 200. b. which M. Lamberd in his processes annexed to his Eirenarcha faith to bethe common proces vpon any presentment not being felony, nor especially appointed for the fault presented by statute. Whereofhe sexeth downe an example in the same place. See also the new booke of Eneries. verbo Enquest fel. 253. columna. 1. 2. 6 3.

Venire facias tot matronas. See Ventre influciendo. See Lamb. Eirenarcha, li. 4. ca. 14. pa. 532.

Venew (vicinetum) is taken for a neighbour or neare place. As for example twelve of the Affife ought to be of the same Venew where the Demaund is made. old. nat. br. fol. 115. and in the statute anno 4. H. 4. ca. 26. & anno 25. H. 8. ca. 6. I find ethese words: And also shall returne in every such panell vpon the (venive facias) sixe sufficient Hundreders at the least, if there be so many within the Hundred, where the Venew lyeth.

Ventre inspiciendo, is a writ for the search of a woman that saith shee is with childe, and thereby withhouldeth land from him that is the next heire at the common law. Register original fol.

227.a.

Verdour (viridarius) commeth of the French (verdior .i. Saltuarius, vel cuftos nemoris) he is (as M. Manwood parte pri: of his forest lawes pag. 332. defineth him) a Iudiciall officer of the Kings forest, chosen by the King, in the full county of the same shire, within the forest. where he doth dwell, and is fworne to maintaine, and keepe the Affises of the forest, and also to view, receive, and inrolle, the Attachments and presentments. of all maner of trespasses of the forest of yerr, and venison. And the same authour vpon the first artitle of Canutus charter, in the beginning of the same part, faith, that these in the Saxons times were called (Pagened) being foure in number, and they

chiefe

chiefe men of the forest, as then they were. Their fee was in Canutus time, each of them every veare of the Kings allowance, two horses, one of them with a faddle, another of them without a faddle, one fword, fine Iauelins, one speare, one shield, and ten pounds in money. Thefe foure (as appeareth by the faid charter, nu. 11.) had regalem potestatem, and might proceede to a threefold judgement? And if any man offered them, or any of them violence, if he were a free man, he should loose his freedome, and all that he had : if a villein, he should loofe his right hand. All the officers of the forest were to be corrected and punished by them. ibidem, nu. 10. The verdour is made by the Kings writ. Cromptons Iurifd: fol: 165, the forme of which writ you haue in Fitzh. nat. br. fol. 164. which is directed to the Shyreeue for the choice of him in a full County, by the affent of the faid County. Yet if a verdour bee sodainely ficke or dead at the time of the lustice seate, a new may be chosen without a writ. Manwood parte prim. pag. 72. the office is (as (rompton faith) loco allegato) properly to looke to the vert, and to see that it be wel maintained. Also when any forfeiture is taken in the Forest be-

fore the Foristers, or other ministers: the price thereof shall be delinered to the verdour, who is to answer for it before the Juflices in Evre. And if he die . his heire is chargeable therewith. Crompton ibidem. The forme of his oath at his admittance you may see in Manwoods first part of his Forest lawes, pag. 51, who there calleth him verderour alias. verdictor. You shall truly serue our Soueraigne Lord the King in the office of a verderor of the Forest W. you shall to the vetermost of your power, and knowledge, do for the profit of the King, so farre as it doth apperteine vnto you to do. You shall preserve and maintaine the auncient rights and franchises of his Crowne: you shall not conceale from his Maiestie any rights or priviledges, nor any offence either in vert or venison, or any other thing. You shall not withdraw, nor abridge any defaults, but shal endeuour your felfe to manifest and redresse the same, and if you cannot doe that of your felfe, you shall giue knowledge thereof vnto the King, or vnto his Justice of the Forest. You shall deale indifferently with all the Kings liege people: you shall execute the lawes of the Forest, and do equall right and inflice, as well vnto the poore, as vnto the rich

Yyy 1

in that appertaineth vnto your office you shall not oppresse any person by colour thereof, for any reward, fauour or malice. All thefe things you Chall to the vttermost of your power obserue and keepe. Their office is farder expressed, eodem pag. 92. which is to fit in the court of attachment, to fee the attachments of the Forest, to receive the fame of the Foreffers and Woodwards, that do present them, and then to enter these Attachments into their rolles. moy to floming

Verdict, (veredictum) is the an-Swer of a Jurie or Enquest made ypon any cause civil or criminall, committed by the court to their confideration or triall. And this verdict is two-fold cither generall or especiall. Stampf. pl. cor. lib. z. cap. 9. A general verdict is that, which is given or brought into the Court, in like generall termes to the generall issue: as in an action of defersion the Defendant pleadeth, No whong, no difeifin. Then the iffue is this in generall, whether the fact in question be a wrong or not. And this committed to the Jurie, they vpor consideration of their eurdence, come in and fay, either for the plaintiffe, that it is a wrong, and differfine or for the Defendant, that it is no wrong, no diffeifin. And againe, the prifoner at the barre pleading, Not guiltie: the Enquest in like generall termes bring in their verdict, either for the King, Guilty. or for the prisoner, Not guilty. Aspeciall yerdict is that, whereby they fay at large, that fuch a thing, and fuch, they find to be done by the Defendant or Tenent, fo declaring the course of the fact, as in their opinions it is proued: and for the qualitie of the fact, they pray the difcretion of the Courr. And this speciall verdict, if it contains any ample declaration of the cause. from the beginning to the end, is also called a verdict at large. Whereof reade divers examples in Stawnf. pl. cor. lib. 3. cap. 9. and one or two in Litleton. fol. 78. 6.79. See the new booke of Entries, verb. Verdict.

Verge (virgata) may seeme to come from the French (verger i. viridarium, horsus.) It is vsed here in England for the compasse about the Kings courts that boundeth the jurisdiction of the Lord Steward of the Kings houshold , and of the the Coroner of the Kings house, and that feemeth to have bene-12, miles compaffe. anno 13. R. 2. Stat. prim. cap. 3. & Fitz. nat. br. fol. 241. B. and Britton, fol. 68 b. 69. a. and Fleza lib. 2. cap. 2. and Sir Edward Cookes Reports. li. 4. fol. 47.a. For this fee the Statute anno 33. H. 8. cap. 12. toward the end. But Fleta faith,
that this compasse about the
Court is called vingata, a vinga,
quam Marishallus portat vi signu
sua potestatis. lib. 2. cap. 4. 8 primVerge hath also another signification, and is vsed for a sticke,
or rodde, whereby one is admitted tenent, and holding it in
his hand sweareth sealtie, vinto
the Lord of a maner; who for
that cause is called Tenent by
the verge old nat. br. fol. 17.

Vergers, (virgatores) be such as cary white wands before the Iuflices of either banke, &c. Fleta lib. 2. cap. 38. otherwise called

Porters of the verge.

Very Lord, and very Tenent (verus Dominus, & verus Tenens) are they that be immediate Lord & Tenent one to the other; Brooke. titulo, Hariot. fol. 23. In the old nat. br. and in the writ (Replegiare de averis. fol. 42. I find these words: And know ye that in taking of leafes, fix things are necessarie: that is to fay, very Lord and very tenent, Seruice behind, the day of the taking, seisin of the seruices, and within his Fee. And know ye, that a man is not very tenent, vntill he have atturned to the Lord by fome feruices. So that by Brooke, thevery Lord, and the very Tenent, must be immediate, and by this booke there must be an acknowledgement. See an.

Vert, (viride) is made of the French (verd. i. viridis) and fignifieth with vs in the lawes of the Forest, every thing that doth growe, and beare greene leafe, within the Forest, that may couer and hide a Deere. Manwood in the second part of his Forest lawes, fol. 6. a. and fol. 33. b. (with whom also Crompton agreeth, fol. 170. of his Iurisd.) And vert (as the same author faith, eodem, fol. 34.) is divided into Ouer vert, and Neather vert. Oner vert, is that, which the Lawyers call (Hault bois) and Neather vert, is that which they cal (South bois.) And of this you may reade him in his fecond part of Forest lawes. cap. 6. per totum. Where you shall find, that he divideth vert into generall, and speciall: Generall is, asit is aboue defined: vert speciall, is euery tree and bush within the Forest to feed the Deere withall: as Peare trees, Crabtrees, Hauthornes, Blackbush, and such like. And the reason of this name is, because the offence of destroying of such vert, is more highly punished, then of any other, according to the quantity thereof. eod ca. 6.nu. 2.fol. 35.a.

Veryuse, otherwise called Plonkets. anno. 1. R. 3. cap. 8. a kind of clothe.

Yyy 2 Vesses.

Vesses. anno I. R. 3, cap. 8.69 anno I4. & 15. H. 8. cap. II. 0-therwise called, Set clothes.

Vesture (vestitura) is a French word signifying a garment: but in the vse of our common lawe, turned metaphorically to betoken a possession, or an admittance to a possession. So it is taken, Westm. 2. c. 25. anno 13. Ed. prim. And in this signification is it borowed from the Feudists, with whom (Investitura) significant by a speare, or staffe, and vestitura, possession it selfe. Hotoman, in verbis sendal. verbo Investitura.

Vesture of an acre of land. an. 4. Ed. prim. stat. prim. is the profit of it. & anno 13. Edvard. 1. cap. 25.

Vice-treasurer of the Exchequer 1. Iacob. 26. See Vnder-treasurer of England. See Treasurer of the

Exchequer.

Franci plegii) is the office which the Shyrecue in his Countie court, or the Bayliffe in his Hundred, performeth in looking to the Kings peace, and feeing that euery free man be in fome pledge. This is called of Bracton li. 2. ca. 5. nu. 7. in fine, Res quafifacra, quia folam perfonam Regis respect, & quod introductus sit pro pace & communi visilitate. eodem, ca. 16. nu. 8. in sine. See frank

pledge, and Leete, and Decennier. See the new booke of Entries. verb: view of frank pledge.

Veiours (vifores) commeth of the French (Veoyr.i.cernere, intueri, de spicere, prospicere, videre) and fignifieth in our common lawe those, that are sent by the court to take view of any place in question, for the beter descision of the right: old. nat. br. fol. 112. Soe doch Bracton, vie it lib. 5. tract. 3. cap. 8. per totum. It fignifieth also those, that are fent to view such as essoine themselves de malo lecti, whether they be in truth fo ficke, as they cannot appeare, or whether they counterfeit. Bracton lib. 5. tracta. 2. cap. 10. & cap. 14. per totum. Lastly it is vsed for those that are fent of appointed to view an offence, as a man murdered, or a Virgin rauished. See View. Titur out on bag and tanks

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Vicario deliberando occasione cumsdam Recognitionis, &c. is a writ that lyeth for a spirituall person imprisoned upon forseiture of a Recognisance, without the Kings writ. Reg. orig. fol. 147. See statuto mercatorio contra personam ecclesiasticam.

Vicis & venellis mundandis, is a writ that lyeth for a Maior and Bayliffes of a towne, &c. For the cleane keeping of their streets. Register orig. fol. 267. b.

View (visus) commeth of the French

French (veue. i. visus . astectus. confectus, prospectus) and fignifieth with vs, the act of viewers. For (as the author of the Termes of lawe faith) when any action reall is brought, and the Tenent knoweth not well what land it is, that the Demandant asketh, then he may pray the view:that is to fay, that he may fee the land, which is claimed; of this Britten speaketh, cap. 45. This point of proceeding we have received from the Normans. as it appeareth by the Grand custumarie. cap. 66. where you shall reade to this effect . It is to be knowne that there bee divers forts of viewes : one of a fee, another of a man in ficknes, another of an offence, as of a man flaine, or of a Virgin deflowred : all which he describeth in that place, and againe, cap. 80. 6 96. which are worth the reading: this view at this day is vied in an Affile of rent service, rent charge, or rent feck. Fitzh. nat. br. fol. 178. D. and in a writ de Curia claudenda. Idem, fol. 128. B. In a writ of Nusance. Idem, fol. 183. L. N.O. In a writ Quoinre. Idem. fel. 128.L. In the writ de nationalibus dinifis. Idem. fol. 129. D. And in the writ de secta admeliendinum. Idef. 133. B. See the new booke of Entries: verbo: View . and fee Fleta how this view is made.

lib. A.ca.6. See Veiours.

Vicechamberlaine, called underchamberlaine anno 12. R. 2. flat.2. cap. 1. is a great officer in court next under the Lord Chamberlaine, and in his abfence . hath the command and controlmet of all officers superior & inferiour what soeuerappertaining to that part of his maieftieshoushold, which is called the chamber wherein is included as well the bedde chamber, as the priny chamber, the presence and the great Chamber and all other roomes, as galeries, &c. thereto belonging, with the Councell chamber, prinie closet, &c. And in the Lord Chamberlaines absence he kecpeth his table in the great chamber, commanding and overfeeing the attendance of all, to whome it appertaineth to be ready and waiting on his maiesliegoing to the chapell, or to speake with ambassadours, or els walking or riding forth.

Vicount, alias Viscount (vicecomes) commeth of the French
(vicompte.i. Protomes) and fignifieth with vs as much as Shyreeue. Betweene which two
words I finde no other difference, but that the one commeth from our Conquerours
the Normans, and the
other from our Auncesters
the Saxons, wherefore see

Yyy 3 more

more of this in Shyreeue. Vicount also fignificth a degree of nobilitynext vntoan Earle, which (as M.Cam, Brita.p. 107. faith)is an old name of office, but a newe one of dignitie, neuer heard of amongst vs, vntill Henry the fixth his daies. But this degree of honour is more auncient farre in other countries. Cassan in gloria mundi, parte 5.consid. 55 . whome you may reade. dasab s

Vicountie is an adiective made of vicountie, and fignifieth as much, as beloging to the vicount; as writs vicountiel are fuch writs as are triable in the countie or Shyreenes court.old.nat br. fol. 109. Of this kinde you may fee divers writs of Nusance set downe by Fitzh. in his nat. br. fol. 184.b. There be also certaine fermes called Vicountiels, which the Shyreeue for his time payetha certaine rent for to the King, and maketh what profit hecan of them. See the statutes, anno 33. 6 34. H.S. ca. 16.6 anno 2.6 3. Ed. 6. ca. 4. and anno 4. H. quint, capite fecundes daum as av daw dien

Vilaica removenda, is a writ that lyeth for the remooving of forcible possession of a benefice kept by lay men. And this writ is graunted some time vpon the Certificate of the Bishop into the Chauncerie, that there is

fuch a force in his Dioces: fome time vpon a surmife made there of by the Incumbent himselfe, without the certificat of the Bithop, and hath a fenerall forme for either case. Fitzb nat. br. fol. 54. Register orig. fol. 59. 60.

Villanis Regis subtractis reducendis, is a writ that lieth for the bringing back of the kings bondmen, that have beene caried away by others out of his maners, wherevnto they belonged, Register origin. fol. 87.6.

Villein(villanus) commeth of the French (vilain .i. illiberalis, impurus, vilis, turpis , and fignifieth in our common lawe a bondman, or as much as Servus among the Ciulians . Of these there betwo forts in England, as Sir Tho. Smith faith in his repub. Anololi. 3. cap. 8. one termed a Villein in groffe, which is immediately bound to the perfons of his Lord and his heires, the other a villein regardant to a maner, whome the Ciuilians terme (Glebe asoriptitium) being bound to their Lord, as members belonging and annexed to fuch a maner, whereof the Lord is owner. This diuision is affirmed by diuers places of our common lawe writers: as in the old. nat. br. fol. 8. You have these words. Know ye that a woman shall

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be indowed with a villein in groffe, & c. and againe. fel. 39. If a man doe menace or threaten any villeins, which are regardant to a maner, &c. Bracton hath another diuffon of villeins, which is all one with the Ciuilians. For in his first booke, cap. 6.nu. 4.he faith thus: Serui autem nascuntur aut funt, and then thus goeth forward: Nascuntur ex nativo & natina alicuius copulatis vel folutis, five sub potestate Domini constituti sint, sive extru potestatem. Item nascitur sernus, qui ex natura soluta generatur quamvis ex patre libero: quia seguitur conditionem matris quali vulgo conceptus, &c. And after divers things deliuered of this fort, he faith againe thus: Funt etiam fervi liberi homines captivitate de iure Gentium: &c. Fit etiam fervus liber homo pro confessione in Curia Regis fastam: vt cum liber homo sit in Curus Regis, & se se cogno cat ad villanum. Item liber homo fit fervus, sicum semel manumiffus fuerit, ob ingratitudinem in servitusem renocetur. Item sit liber homo seruus cum ab initio clericus vel monachus factus fuerit, postea ad secularem vitam redierit. Quia talis restitus debet Domino suo. v. Traquellum de Nobilitate. cap. 2. pag. 14.num. 54. In very many provinces of Fraunce there be certaine men called (homines manus mortuagus tanta suris simili-

tudine adscriptiis colonis conuncti. & prope iidem videntur. Non autem servi sunt omnino, sed in territorio domini sunt tanguam alligati, non habentes demigrandi pote-Statem. Itag: Cerui corporis eg prosecutionis vulgo dicuntur, qued si fugerint potest eos prosegui dominus & capere. Tributum antem isti & nonnullas commoditates domino prastant: in quibus bac maxima, quod ipsis va functis sine Cobole, succedit dominus vel ex toto vel ex parte. Connanus. lt. 2. cap. 10.num. 3. whose words I thought not vufit for this place, because they expresse the nature of our villenage fomthing aptly.

Villem fleeces: anno 31. Ed. 3. cap. 8. are fleeces of wolle that are Thorne from feabbed here is bound, and in all squad

Vidimus, anno 1 5. H. 6.ca. 3. Villenage (Villenagium) commeth of (villein) and fignifieth a seruile kinde of tenure belonging to lands or tenements; that is, a tenure of lands or tenements, by fuch a feruice; as villeins are fittelt to performe. For enery one that houldeth in villenage, is not a villein, or a bond man. Villenagium vel seruit um nihil detrabit tibertatis, habitatamen distinctione, verum tales sint villani, & tenuerint in villano soccagio de dominico Domini Regis. Bracton. lib. pre. ca. 6. nu. pri. Britton in his 66. chapter speaketh to this

effect.

effect. Villenage is a tenure of the demesns of a Lord delivered to a Tenent at the Lords will, by villenous seruices, to improoue it to the Lords vse, and deliuered by the rodde, and not by any title of writing, or succession of inheritance, &c. And a litle after he hath words to this effect: In the maners of our auncient Demesus, there be pure villeins both by blood and tenure: the which may be cast out of their tenement, and deprined of their chatels, at the pleasure of the Lord. By which two places I gather, though villein tenure doc not alway make the Tenenta villein:yet that there is a twofold tenure called villenage : one wherin both the perso & the tenure is bound, and in all respects at the disposition of the Lord: and another, which in respect of the tenure is aftera fort feruile, though the person be not bond. This is well proued by Bracton, li. 2. ca. 8. nu. 3.in these words. Item tenementum non mutarstatum liberi, non magis quam ferui: Poterit enim liber homo tenere purum villenagium, faciendo quicquid ad villanum pertinebit, & nibilo-minus liber erit, cum boc faciat ratione villenagii, & non persone sua: & ideo poterit, quando voluerit, villenagium deserere, & liber discedere, nisi illaque atus sit per vxorem natiuam ad hoc faciendum, ad

quam ingressus fuit in villenagium. G qua prastare poterit impedimentum, cre. Sothat a man may hould in pure villenage, and vet be a free man in respect of his person. But what is pure villenage? Bracton aunswereth in the words there next following: Purum villenagium est, à quo prestatur (eruitium incertum & indeterminatum, vbi farinon peterit vefpere, quale serutium fieri debet mane. viz: vbi quis facere tenetur quicquid eipreceptum fuerit. The other fort of villenage which is not pure, is there called of Bra-Eton (villanum foccagium) which differeth from the other in this. because it is onely tyed to the performence of certaine services agreed vpon betweene the Lord and the Tenent. Whereof fee Bracton also in the same place: by whom you may perceiue, that a man may hould (per villanum (occagium) and yet have (libegum tenementum if he haue it to himselfe and his heires. This villanous foccage is to cary the Lords dung into his feilds, to plow his ground at certaine daies, fow and reape his corne, plash his hedges, &c. See Seccage.

Villenous indgement (Villanum indicium) is that which casteth the reproch of villeny and shame upon him against whom it is ginen, as a Conspiratour, &c

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Stawnf:pl:cor. lib. 2.12.f. 175. This M. Lamb: in his Eirenarcha, lib. 1. ca. 13. pag. 63. calleth villenous punishment, and saith that it may well be called infamous, because the judgement in such a case shalbe like the auncient judgement in Attaint (as it is said anno 4. H. S. Fitzh. Indgement 220.) and is (in 27. lib. Affif: pl. 59.) fet downe to be, that their oathes shall not be of any credit afterward, nor lawfull for them in person to aproch the Kings Courts: and that their lands and goods be seised into the Kings hands, their trees rooted vp, and their bodies imprisoned, &c. And at this day the punishmet apointed for periury, (hauing somwhat more in it, then corporall or pecuniary paine) Aretching to the discrediting of the testimony of the offender from euer after, may be partaker of this name. Thus farre M. Lamberd.

Vargataterra. Register orig. fol.

167. a. See yard land.

Voridario eligendo, is a writ that lyeth for the choice of a verdour in the forest. Register orig. fol:

177.

Visitation of maners (Visitatio morum) was wont to be the name of the Regarders office in auncient time. Manwood, parte pri. of his forch lawes, pag. 195. See Regarder.

Visne (Vicinetum) signifieth a

neihgbour place, or a place neere at hand anno 16. R. 2. ea. 6.

Vife Franciplegii, is a writ to exempt him from comming to the view of Frankpledge, that is not within the Hundred refident. For men are bound vnto this view by reason of their habitation, and not of lands held where they dwell not, Register mig. fol. 125.

Vitteller (victualarius) commeth of the French, (victuailes. i. commeatus) and fignifieth with vs, him that selleth victuals. For these there is a write in Fizz. wat. br. fel. 172. if they exercise their trade, bearing a magistracie in any towns cor-

porate.

Vmple. anno 3. Edward. 4.

cap. 5.

Vncore prist, is a plee for the Defendant, being siewed for a debt due at a day past, to same the forseiture of his bond; saying, that he tendered the dept at the time and place, and that there was none to receive it, and that he is now also readie to pay the same. 7.Ed. 6. 83. Dyer. See Vnquest prist.

Vnculb, is a Saxon word fignifying as much as (incognitus) It is vied in the auncient Saxon lawes, for him that commeth to an Inne guest wise, and lyeth there for two nights at the most. In which case

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his host was not bound to answer for any offence, that he committed, whereof he was guiltleffe himselfe. But if he laid there the third night, then he was called (quest, hospes) and the must the host answer for him, asfor one of his owne familie. And if he taried any longer, then was he called Agen hine, that is to say, familiaris. Whom, if he offend against the Kings peace, his hofte was to see foorthcomming: or if he could not bring him out within a moneth and a day, he must satisfie for his offence. Lamberd. Archaiono. fol. 133. num. 7. Of this Bracton. lib. 3. cap. 10. num. 2. Writeth thus: Item secundum antiquam consuetudinem dici poterit de familia alicuius, qui bolbitatus fuerit cum alio per tres nostes: quia prima no te poterit dici Vncuth, secunda vero Gust, tertia nocte Hoghenhine, &c. This law was made for the better preservation of the Kings peace, and to shew in what pledge eucry man was to be accompted, that travelled by the way. See Tuainnithes gest.

Vnde nihil habet, is a writ. See Dote unde nihil habet.

Vnder-chamberlaine of the Exchequer, is an Officer there, that cleaueth the taileys written by the Clerke of the Taileys, and readeth the same, that the Clerke of the Pel and the controllers thereof may fee their entrie be true. He also maketh searches for all Roords in the Treasurie. There be two Officers there of this name.

Vnderescheatour. Subescheatour. anno 5. Ed. 3. cap. 4. See Escheatour.

Vndershyreene, (Subvicecomes) See Shyreene.

Undersitter is an Inmate. See Inmate.

Vndertakers, be such as are employed by Pourueyours of the King as their deputies. anno 2. & 3. Phil. & Mar. cap. 6. and such as vndertake any great worke, as drying of Fennes, &c. anno 43. Elizarap. 11.

Vnder-treasurer of England, (vicethe (aurarius Anglia) anno 39. El. cap. 7. 6 anno 43. einsdem. Subsidie of the Clergie. This Officer (as some Exchequer men thinke) was first created in the time of king H.the feuenth, to chest yp the Kings Treasure at the end of every Terme, and to note the content of money in each cheft, and to fee it caried to the Kings Tressurie in the Tower, for the ease of the Lord Treasurer, as being a thing too meane for him to be troubled with, and yet meete to be performed by a man of great fecrecie and truft. He in the vacancie of the Lord Trea-

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furers office, doth all things the receipt, that the Lord Treafurer doth. He nominateth the two Prayfers of all goods feifed as not customed, and ordereth, whether the partie shall haue them at the price or not. He appointeth the Steward . Cooke, and Butler for the prouision of the Starre-chamber. But this Officer in other mens judgment, is farre more auncient then Henry the feuenths dayes, vet named Treasurer of the Exchequer in the Statutes vntill Queene Elizabeths time, where he is tearmed Vnder-treasurer of England. Neuerthelesse, anno 25 Elizabeisalfo written Treasurer of the Exchequer. Read the Statutes, anno 18. Ed. 3. stat. 2. 6ap. 17. & 27. einsdem. Stat. 2. cap. 18.1. Rub. 2. cap. 5. 4. Hen. 4. cap. 18. 8. H. 6. cap. 17.27. H. 8. cap. 11. with diuers other places, that seeme to approue this to be true.

Vnion (vnio) is a combining or consolidation of two Churches in one, which is done by the consent of the Bishop, the Patron, and the Incumbent. And this is properly called an Vnion. Howbeit, that there be two other sortes: as when one Church is made subject to the other, and when one man is made Prelate of both, and when a conventual is made Cathedrall, as you may

reade in the Gloffe of the chapter. Licet. De locato es conducto. in Lyndwoods Prouincials. S. Et quia. versu Appropriationis. Touching Vnion in the first fignification there was a statute, an. 27. H. 8. cap. 21. that it should be lawfull in two Churches, wherof the value of the one is not aboue fixe pounds in the Kings bookes of the first fruites, and not about one mile distant from the other. Vnion in this fignification is personall, that is, for the life of the Incumbent : or reall, that is, perpetuall, whofoeuer be Incumbent.

Vnitie of possession, is called consolidatio vsus fructus, & proprietatis in the Civill lawe, fignifying a joynt possession of two rights by seuerall titles. For example, I take a lease of land from one vpon a certaine rent:afterward I buy the Fee-simple. This is an vnitie of possession, wherby the leafe is extinguished: by reason that I, which had before the occupation only for my rent, am become Lord of the same, and am to pay my rent to none, but my selfe. Also an Abbot being seated within a certaine parish, afterward obtaineth an appropriation of the tythes belonging to that Church, for the vie of his house. Here is an unity of possession, by reason that the tythes, which before were to be

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Paid to the Incumber, are now to be paid to none but himselfe, by vertue of the appropriation.

Vniversitie, (Vniuersitas) is by the Ciuill lawe any bodie politicke, or corporation : but in our language it is (at the least most ordinarily) taken for those two bodies, that are the Nourishes of learning, and the liberall Sciences, Cambridge and Oxford: endowed with great fauours, and priviledges, for their beter maintenance, as appeareth not onely by an. 2. 6 3. Ph. 6 Mar.c. 15.a.13. El.c. 21. 6 a. 18. eiuf.c.6. but much more by their seuerall charters, graunted vnto them by divers godly and magnanimous Kings of this land.

Vnlawfull assembly, (Illicita congregatio, illicita assemblata) is the meeting of three or more persons together, with force to commit some volawfull act, and abiding stil, not indevouring the execution thereof, as to affault or beate any person, to enter into his house or land, &c. West. parte 2. Symb.tunlo, Inditements, feet. 65. M. Lam. in his Errenar. cha. cap. 19. faith thus: An vnlawfull affembly is the companie of three persons or more, gathered togther, to do fuch an vulawfull act, although they do it not indeed. So faith Kitchm in effect, fol. 20.

Vinques prist, is (word for

word) alwaies readie. And it fignifieth a Plee, whereby a man professeth himselfe alway ready to do or performe that, which the Demaundant requireth, therby to anoide charges. For example: a woman fieweth the tenent for her Dower; and he coming in at the first day, offereth to auerre, that he was alway ready and still is, to performe it. In this case except the Demaundant will auerre the contrarie, he shall recouer no dammages. When this Plee will serue to auoide Charges, and when not, see Kit. fol. 24 3. See Vncore prift.

Voydanco (vacatio) is a want of an Incumbent vpon a benefice: and this voydance is double: either in law, as when a man hath more benefices incopetible: or indeed, as when the Incumbet is dead, or actually deprived. Brooke, titalo Quareimpedit. n. 51.

ling in of one into the Court at the petition of a party that hopeth to be helped thereby. New booke of Entries. verbo. vencher. vencher de garantie Brit. ca. 75. in latine (Aduocatio ad marantizandum) is a petition in court made by the Defendant to have him called, of whom he or his Auncester bought the land or tenement in question, and received warranty for the secure inioying thereof against all men.

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Britton of this writeth a long chapter, vbi fupra, intituling it Garant voucher. But Bratton writeth a large tractate of it, lib. s. tracta. 4. per totum. Litleton also haudleth it not minfingly, in the last chapter of all his Tenures. Of this you may read Fitzb. also in his nat. br. fol. 134. De warantia charte. All this law feemeth to have bene brought into England out of Normandy. For in the Grand Custumary you haue likewise a chapter intituled (vouchement de garant, cap. 50.1d est, vocamentum Garanti) where it is set downe, what time ought to be given, for the appearance of the warrant called in this cafe, how many warrants may be vouched, one calling in another, and divers other points touching this doctrine. All which, and many more, you may read in Bracton vbi supra. A common voucher, a double voucher. Coke lib. 2. Sir Hughe. Cholmleis cafe, fol. 50. b. This is very aunswerable to the contract in the Civill lawe, whereby the buyer bindeth the feller, sometime in the simple value of the thing bought, sometime in the double, to warrant his secure enioving of the thing bought. But this difference I find betweene the Civill lawe and ours, that whereas the Ciuill lawe bindeth cuery man to warrant the fecu-

ritie of that which hee felleth? ours doth not fo, except it be especially couenanted. The party that youcheth in this cafe, is called the Tenent, the partie vouched is tearmed the Vonchee. The writ whereby he is called, is termed Summoneas ad marrantizandum. And if the Shyreeue return vpó that writ, that the party hath nothing, whereby he may be summoned : then goeth out another evrit. viz. Seguatur sub suo periculo. See Termes of the lame. verbo Voucher. And Lamb. in his Explication of Saxon wordes, verbo Advocare. See Warrantie. I reade in the new booke of Entries, of a forain voucher, which hath place properly in some Franchise, Countie Palatine, or other where one voucheth to warrantie one not dwelling within the Franchile. fol. 615. columna. I. whereupon because the foreyner neede not be tryed in that Court, the record and cause is remooned to the common plees, &c. See of this Fitz nat. br. fol. 6. E.

Vser de action, is the persiewing or bringing of an action, which in what place and countie it ought to be, See Brooke, titulo

Lieus Countie. fol. 64.

Vse (vsus) is in the originall fignification, plaine enough but it hath a proper application in our common lawe, and that is

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the profit or benefit of lands or tenements, And out of M. Welts first parte of his simbol: lib. pri. feet. 48.49. 50. 51. and 52. I gather shortly thus much for this purpose. Euery deede in writing hath to be considered the substance, and the adjuncts. Touching the substance, a deede doth confift of two principall parts, namely the premisses and the confequents. The premisses is the former parte thereof, and is commonly faide to be all that, which precedeth the (Habendum) or limitation of the estate, which be the persons contracting, and the things contracted. The consequent is that which followeth the premisses. & that is the (Habendum) In which are two limitations: the one of the estate, or propertie, that the party passiue shall receive by the deede, the other of the vie: which is to expresse in the faid (Habendum) to or for what vie, and benefite he shall haue the same estate. And of the limitation of those vses, you may read many presidents set downe by the fame author in his second booke of his faide first part, settio. 208. and so forthto 327. These vses were invented vpon the statute called, West. 3. or Quia emptores terrarum, before the which statute no vses were knowne. Perkins. Devises. 528. And be-

cause mens wits, had in time devised many deceirs, by the set-ling of the possession in one man and the vse in another, there was a statute made, anno, 27. H. 8. ca. 1. wherby it was inacted, that the vse and possession of lands and possessions should alway stand voited. New expositour of lawe termes, verbo. Vse. v. Coke lib. 1. Chudleise case. fol. 121. & sego.

Vsher (Ostiarius) commeth of the French (Huissier.i. Accensus, apparator, Ianitor) It signifieth with vs first an officer in the Eschequer: of which fort there be foure ordinarie vshers that attend the cheise efficers and Barons of the court at Westminster, and Iuries, Shyreeues and all other accoumptants at the pleasure of the court. Therbe also Vshers in the Kings house, as of the priny chaber, &c.

Vtas (Ottava) is the eight day following any terme or feast: as the vtas of Saint Michaell, the vtas of Saint Martine, of Saint Iohn Baptist, of the Trinitie &c. as you may reade. anno 51. H. 3. stat. concerning generall daies in the Benche. And any day betweene the feast and the eighth day, is saide to be within the vtas. The vse of this is in the returne of writs, as appeareth by the same

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fatute.

Vefangthef, is an auncient Royaltie graunted to Lord of a maner, by the King which giveth him the punishment of a theefe dwelling out of his liberty, and having committed theft without the fame, if he be taken within his fee. Bra-Cton. lib. 2. cap. 24. who in his third booke, tract. 2,ca. 35.feemeth rather to interpret the word, then to expresse the effect, and faith thus. Vefangthef dicitur extraneus latro veniens aliun. de de terra aliena; & qui captus fuit interra ipsius, quitales habet libertates. It feemeth to be compounded of these three words. Vt, fang, thef. which in our moderne English be,oute, take or taken, Theefe. Of this Fleta hath these words. vifangenthef dicitur latro extraneus veniens aliunde de terra aliena, & qui captus fuerit in terra ipsius qui tales habet libertates. Sed non fequitur quod possit ille hominem (uum proprum extra libertatem suam captum reducere vsq; in libertatem, & ibi eum iudicare: reducere tamen poterit judicatum, & indicium in proprio patibulo exequiratione libertatis: commodum tamen non video. Debet enim quilibet iuri subiacere, vbi deliquit: proprios tamen latrones & alienos indicare posunt, dum tamen infra libertatem fuerint capti, &c.

Vtlaghe, significat bannitum

extra legens. Fleta. li. 1. cap.

47. See Vtlawrie.

V tlagato capiendo quando vtlagatur in uno comitatu, & postea fugit in alium, is a writ, the nature whereof is fufficiently expressed in the words fer downe for the namethereof. See the Register

originall, fo. 123.

Velamie (velagaria, alias velagatio) is a punishment for such as being called into lawe, and lawfully fought, doe comteptuoully refuse to appeare. And as Bracton faith li. 3. tract. 2.ca. II . He that is siewed must be fought, and called at 5. counties, a moneth being betweene euery countie, to answer to the lawe. And if he come not within that time, pro exlege tenebaur cumprincipi non obediat, nec legi: & ex tunc otlavabitur: that is, as the author of the termes of lawe faith, he shalbe pronounced by the coroner, to be out of the Kings protection , and depriued of the benefit of the lawe. The effect of this is divers (as the same Author saith) . for if he be outlawed in an action personall, (he meaneth) at the fuite of another in a civile cause: he shall forfeit all his goods and cattells to the King: if vponfelonie then he shall forfeit all his lands and tenements, that he hath in fee simple, orfor terme of his life, and his goods

and cattles . Bratton: vbi supra, nu.5. faith, that fuch as be outlawed vpon felonie, ex tunc gerunt caput lupinum, ita quod sime indiciali inquisitione rite pereant, & secum suum indicium portent & merito sine lege pereunt, qui secundum legem viuere recusarunt. Et hec ita, a cum capiendi fuerint, fugiant, vel se defendant si autem vivi capti fuerint, vel se reddiderint, vita illorum er mors erit in manu Domini Regis. See Horns mirrour of Instices, lib. 3. cap. des fautes punishables . Bracton faith the place aboue specified (with whome also Fleta agreeth, lib. I. cap. 27.) that a Minor or a woman cannot be outlawed. But take his owne words: Minor verò, & qui infra atatem. I 2.annorum fuerit, vilagarinon potest, nec extra legem poni,quia ante talem etatem non est sub lege aliqua, nes in Decenna, non magis quam fæmina, que vtlagari non potest, quia ipsa non est sub lege.i. Inlaugh Anglice, sc: in fraco plevio, sive decenna: sicut masculus, 12. annorum & viterius. Et ideo non potest vtlagari.Waiviari tamen bene poteft, & proderelista haberi, cum pro felonia aliqua fugam fecerit sue ceperit. Est enim mainium, quod nullus advocat, nec princeps eum advocabit nec tuebitur, cum fuerit rite Waiviata: sicut sit de masculo, qui secundum legem terre rite fuerit vilagatus, &c. To the same

effect writeth Fitz b. in his na.br. fo. 16 1.viz. And because women be not sworne in leetes to the King, as men be of the age of 12 yeares or vpward: it is faid. when a woman is outlawed. that shee is wained, but not outlawed, for thee was never under the law, nor sworne voto it. More of this you may reade in Bracton, lib . 3. tracta. 2. cap 12.6.13 and then in the 14. how an outlaw is inlawed againe, and restored to the Kingspeace and protection. See also Fleta, lib. 1.cap. 28. per totum.

Verum. See Affife.

Viter Baristers, be such as for their longe study and great industry bestowed vpon the knowledge of the common lawe, be called out of their contemplation to practise, and in the face of the world to take vpon them the protection and defence of clients. These are in other countries called, (Licentiatim iure). How be it in modestie they still continue themselues hearers for diners yeares, like the scholers of Pythagoras, that for the first fine yeres neuer aduentured to reason or dilcourse openly vpon any point of their masters Doctrine, which their silence (a cohibendo sermone) was termed exemplia Suidas and Zenedorus doe report.

Velepe,

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Vtlepe significat escapium latromm. Fletalib. I. ca. 47.

VV Age (vadiare) pro-ceedeth of the French (Gager. i. dare pignus, pignore certare) and fignifieth in our common lawe the giuing of securitie for the performing of any thing: as to wage lawe, & to wage deliuerance which fee before in Gage. None wageth lawe against the King. Brooke tit. Chose in action, num.6. The substantiue of this verb is (Wager) in the latine (vadium) which some Feudists call (madium) as testifieth Hotoman in bis Commentaries de verbis feudalibus. verbo Wadinm. See Lane.

Wainage (Wainagium, alias Wannagium) fignifieth as much as peculium servorum of the Saxon word mouen.i.habitare, & woening.i. habitatio. See. Gamage.

Waine (mainiare) Register orig. fol. 277. a) is to forfake (habere pro derelicto) as the Civilians terme it. Waiviare feudum suum. Bracton lib. 2. cap. 7. that is to forfake. Many of the Kings liege people to be outlawed, and many waited by erroneous proces. anno 7. H. 4. ca. 13. See Vtlawrie. To waine the company of theeues. Stawnf.pl.cor. fol. 26. To waive his benefit. Idem fol.

46. to waiue the aduantage. Idem prarog. fol. 17. Persons attainted or wained. West. parte 2. simbel. titulo Fines, fect: 12.D. This word wained wainiata properly belongeth to a woman that being fiewed in law contemptuously refuseth to appeare, as outlawed doth to a man. Registerorie fo. 122. b. 6 277. a. The reason whereof see in Fitzh. nat. br. fol. 161. A.

See Weif.

Wales (Wallia) is a part of England, on the west side inhabited by the ofspring of the auncient Britons chased thither by the Saxons, being called hether by them to affift them against the might of the Pilts. The reafon of the appellation commeth from the Saxon (wealh . exterus, vel peregrinus) for so the Saxons both called them and held them, though now to the great quiet of this kingdome they be incorporated vnto vs See M. Lamb: explication of Saxon words. verba. Wallus.

Walkers. seeme to be those that are otherwise called Foresters. Crompton in his Iurisdictions, fol. 154. hath these words in effect. There be Foresters assigned by the King, which be walkers within a certeine space assigned them to looke vnto.

Wainiaria mulieris, is as much as vilagatio viri. Register originail fol. 132. b. See Waine.

A222 1 Wapentake;

Wapentake (Wapentakium) is all one with that, which we call a Hundred, as appeareth by Bra-Eton.lib. 2. tract. 2. ca. pri.nu. pri. in fine. Convocentur (faith he) postmodum servientes & Balini Hundredorum, & per ordinem irrotulentur Hundredarii, sine wapentakia, & nomina servientium, quorum quilibet affidabit quod de quolibet Hundredo eliget quatuor milites, qui statim veniant coram Insticiariis ad faciendum preceptum Domini Regis, & qui statim inrabunt, quod eligent duodecim milites, vel liberos & legales homines, si milites non inueniantur, &c. M. Lamberd in his explication of Saxon words, verbo Centuria, is of the same minde: and farder faith, that this word is especially vsed at this day in the countries be north the river Trent. And in the lawes of King Edward fet forth by him mu. 33. it is most plaine in these words. Et quod Angli vocant Hundredum, supradicti comitatus voeant wapentakium. But there he nameth some shires of this side Trent, as Warwick Shire, Leicester Bire and Northhampton-Shire. In the words there following, there is a reason given of this appellation in these words. Et non sine causa: Cum quis enim accipiebat prefecturam wapentakii, die statuto in loco, vbi consueverant congregari, omnes maiores contra eum conuenichant, & descendente de equo

suo, omnes affur gebant ei. Ipse vero, erecta lancea (na, ab emnibus lecundum morem fædus accipiebat. Omnes enim quotquot venissent. cum lanceis suis ipsius hastam tansebant, & its confirmabant per contractum armorum, pace palam concesta. Anglice enim arma vocantur (wapun) & saccare confirmare: quali armorum confirmatio. Velut magis expresse secundum linguam anglicanam dicamus, wapentak armorum tactus eft (wapun)exim arma Conant (tac) tactus est. Quamobrem poterit cognosci, quod bac de canfa, totusille connentus dicitur (wapentae) eo quod per tactum armorum suorum ad invicem confaderatifunt. Thus farre the booke goeth word for word. With whom Fleta agreeth, fauing that Fleta faith, that this word is vsed in all counties be north Watlinstreete, li. 2. ca. 61. S. uniner simode. Take Sir Tho: Smithes opinion also: whose words in his second booke de Rep: Anglo: ca: 16. be these: Wapentak, I suppose, came of the Danes, or peraduenture of the Saxons. For that fo many townes came by there order then into one place, where was taken a mouster of there armour and weapons: in which place, from them that could not finde sufficient pledges for their good abearing, their weapons were taken away. The flatute anno 3. Henricis. ca. 2. & anno 9. H. 6.

cap. 10. & anno 15. H. 6. ca. 7. T. maketh mention of Stainstife Wapensake, and Frendles Wapensake, in Crauen in the County of Yorke. See Roger Houseden, parte poster: suorum annalium, fo. 346.b.

Wards and Liveries (wards & liberatura) is a Court first erected in King Henry the eighth his time, and afterward augmented by him with the office of Lineries, and therefore called by him (as now it is) the Court of wards and Lineries. The chiefe of this Court is called the master of the Court, &c. To whom are inyned the Surneiour, Atturny, and Receiver of the said Court, as his Assistants: then as Ministers the Register, two inferiour Atturnies or Clerks, and a Messenger.

Ward (Custodia) is the German word, as (Garde) is the French. Both these beyled among our common lawyers : the one by those that write in French, the other by those that write in English. Wherefore for your farder understanding, See Gard and Gardein. Yet is Gard sometime vsed in the Englishbookes also: as yeomen of the Gard. And also the keeper of one in his minority, is not called a warden but a Gardein or Gardian. Ward hath diuers applications, as a Ward in London, latined (warda) which is a portion of the City committed to the especiall

charge of some one of the 24. Aldermen of the city, in fuch fort as every one knoweth his certaine ward affigned vnto him, and hath dwelling within the same compas some one graue Citizen for the good gouernment thereof: who is in that respect a Deputie to the faid Alderman, and commonly called the Aldermans Deputie. Of these there be 25. within the citie. and one without, beside other liberties and the suburbes. Stomes Survey of London. Also a Forest is divided into wards: Manwood, parte prim. of his Forest lawes. pag. 97. Lastly, a prison is otherwise called a Ward. And the heire of the Kings tenent, houlding by knights service, or in capite, or of any common person by Knights seruice, is called Ward, during his nonage. See anno 32. H. 8. cap. 46.

Warden (Gardianus) fignificath al one thing with the French (Gardien.) And therefore of this see more in Gardien. But it is the more vsuall word of all that writ in English, for him that hath the keeping or charge of any person or thing by office: as Wardens of Felowships in London. anno 14. H. 8. cap. 2. Warden courts, anno 31. H. 6.ca. 3. Warden of the Marches, anno 4 H. 7. cap. 8. Wardens and Com-

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munaleie of the lanes contributoricto Rochester bridge. anno 18. Eliz. cap. 7. Wardens of peace. anno 2. Ed. 3. cap. 3. Statute Northampton. Warden of the West Marches. Camd. Brit. pag. 606. Warden of the Forest. Manwood, parte prim. pag. 111.6 112. Warden of the Aulnage. anno 18. H. 6. cap. 16. Chiefe Warden of the Forest. Manwood parte prim. pag. 42. 6 43. Warden of the Kings wardrobe. anno 51 H. 3. statut. quinto. Wardens of the tables of the Kings Exchaunge, anno 9. Ed. 3. Stat. 2. cap. 7. 6 anno 9. H. 5. (tat. 2.6.4. Warden of the rolles of the Chauncerie. anno 1. Ed. 4. cap. 1. G cap. s. Warden or Clerke of the hamper of the Chauncerie. ibid. Warden of the kings writs, and Records of his common bench, ibid. Warden of the Kings armour in the tower. anno I. Ed. 4.cap. I.

Wardmote, is a court kept in euery ward in London. anno 32. H. 8. cap. 17. ordinarily called among them, the Wardmote Court.

Ward peny, is money to be contributed toward watch and ward.

Warantie, (warantia) commeth of the French (garantie) or (garant) i. vindex litis:) which is a word of great antiquitie with the French men, being brought first thither by the Francogalli. And thence do they make a Latinish verbe, viz. (guarentare) vel, vt est in aliis libris, guarentisare. i. causam alterius suscipere, se defensorem profiteri. The Feudists also vse this word (quarentus) quo significatur is, qui Latinis author dicitur, & enistionem prestat. lib. 2. Fend. titulo 34. 5. 2. The Civilians have a stipulation (habere licere) whereby is fignified a power of perpetuall & quiet possession to be giuen: 1. 11.5 final. To de action. empt. 15 vend. But this reacheth not fo farre as our warrantie. For the seller hereby is bound but to a kind of diligence and care to maintaine the buyer in his pofsession. For if he be euicted the buyer is not tyed to recopence. Dostores in l. stipulatio ista, Habere licere. T. de verb. obliga. Warrantie signifieth in our common lawe, a promise made in a deed by one man vnto another for himselfe and his heires, to fecure him and his heires against all men, for the enioying of anything agreed of betweene them. And he that maketh this warrantie, is called Warrantus by Bracton, lib. 2. cap. 10. 6 37. The Romaines called him Au-Horem, as Hotoman testifieth in his Commentarie vpon Tullies oration pro Aulo Cacinna, verbo, Celennine aushan fand: ... hom you

may reade more at large. And that which we terme vocationem warranti, the Civilians call anthoris laudationem vel nominationem. Eimer pract. cap. 48. This warranty paffeth from the feller to the buyer, from the feoffer to the feoffee, from him that releaseth, to him that is released of an action reall, and such like. And for the forme it passeth in a clause toward the end of a deed in these wordes: Et ego verò prafatus I. & haredes mei pradictas decemacras terra cum pertinentiis (mis prefato H. haredibus, & affignatis (uis contra omnes gentes warrantizabimus in perpetaum per prasentes. West. parte prim. symbol. lib. 2. titulo Feofments. feet. 281. 6 288. So a release may be with a clause of warrantie. Idem, eodem. titulo Releases. sect. 510.

There is also a warrant of Atturney, whereby a man appointeth another to do some thing in his name, and warranteth his action, Welt. eod. lect. 181. And these warrats of Atturney seeme to differ from leters of Atturney, because that, whereas leters passe ordinarily under the hand and seale of himsthat maketh an Atturney by them, before any credible witnesses: warrants of Atturney be acknowledged before fuch persons, by such means and in fuch maner, as Fines. Weft. parte 2. symbol. titulo Recoueries.

selt.prim. F. See Atturney.

But these waranties in passing land from one to another, be of greatest consequent. & of more intricate understanding. And therefore of these divers have written at large: as Glanvile tib. 2. per totum. Bracton lib. s. tract. 4. per totum. Britton. cap. 105. Litleton in the last chapter of his tenures: the formeand effect whereof Bratton in his fecond booke cap. 16. num. 10. declareth thus: Et egoed baredes mei warrantizabimus tali & haredibus suis tantum, vel tale es haredibus & assignatis, & haredibus assignatorum, vel assignatis assignatorum, & corum haredibus, & acquietabimus, & defendemus eis totam terram illam cum pertinentiis (secundum quod pradi-Etumest) contra omnes gentes in perpetuum, per pradictum feruitium. Per boc autem quod dicit (Ego & haredes mei) obligat se & haredes (uos ad warrantiam, propinguos, 6 remotos, prasentes & futuros ei succedentes in infinitum. Per hoc autem qu'od dicit (marrantizabimus) suscipit in se obligationem ad defendendum suum Tenementum in possessione res date, & assignatos suos & corum haredes, & omnes alsos, secundum qued supradictum est, si forte tenementum datum petatur ab antique in Dominicon Per hoc autem quod dicis (acquietabimus) obligat fe & baredes (nos ad Aaaa 3 ACQNIE-

acquiesandum, si quis plus petierit feruitis, vel alind feruitium, quam in charta donationis continetur:per hoc autem quod dicit (Defendemus) obligat le co heredes suos ad Defendendum, si quis velit servicutem ponere rei data contra formam sua denationis, &c. But the new expounder of law terms faith, that this warranty beginneth two waies: one by deede of law : as if one and his auncesters, have held land of another and his auncesters, time out of minde byhomage (which is called Homage auncestrell) for in this case, the homage cotinually performed by the tenent is sufficient to bind the Lord to warrant his estate. The other is by deede of the party, which by deede or fine tyeth himselfe to warrant the land or tenement to the tenent. And Sir Ed: Cooke in the fourth booke of his reports, mentioneth the same distinction. Nokes case, fo. 81. a. calling the one a warranty in law, the other an expresse warranty. Civilians would call these species tacitam & expresam.

Warranty (as the faid author of the terms of law faith, is in two maners : warranty lineall, and warranty collaterall. But (Litleton faith ebisspra) it is threefold: warranty lineall, warranty collaterall, and warranty that beginneth by diffeifin. Warranty by diffeifin what it is, is

partly declared in Sir Ed. Cookes reports, li. 2. Fermors case, fol. 78. a. Whether of them deuideth more aptly, let the learned judge. For my part. I thinke that lineall and collaterall be no effentiall differences of warranty, as it is originally confidered in the first warranter. For he bindeth himselfe and his heires in generall. And fuch be bound, be they lineall or collaterall vnto him. Therefore this division rifeth rather from the event of the originall warranty: videlicet, because it so falleth out, that the tenent, to whom the warranty was made, or his heires, when he or they be called into question for the land warranted formerly by the first feoffour, is driven by the meanes of the first warranters death, to cal or youch him to waranty that is his heire, and now presently liuing, be he descending or collaterall, as it falleth out. For example. A. infeoffeth B. in twenty acres land, with clause of warranty against all men. So long as A. himselfe liueth, he is liable to this couenant, and none els : after his difcease his heire is subject vnto it, be he his sonne, brother, vncle, or what els. And whether of these, or neither of these it will be, mone knoweth vntill hebe dead. Wherefore I conclude that this distinction of lineall or

collate-

collaterall hath no yfe originally in this contract. For (as the author of the terms of law faith) the burden of this warranty, after the death of the first warranter, falleth vpon him, vpon whom the land should have defcended, if the warranty had not bene made. And that is the next of blood to the warranter, be he in the descending or collaterall line . And therefore Irefolue that this distinction groweth from an euent, after the death of him that covenanteth to warrant. But to make this plaine, I finde warranty to be vied equiuocally : fignifiing in one fort, the contract, or couenant of warranty first made, as appeareth by Bracton in the place formerly noted : and in another fort the very effect and performance of this contract, either by the warranter or his heires, when he or they be by the tenent thereunto vouched, or called: As also I thew out of Bracton, lib. 5. tract. 4. ca. pri. nu. 2. in these words. Imprimis videndum est quid sit warrantizatio. Et sciendum qued marrantizare, nibil aliud est, quam defendere & acquietare tenentem, qui warrantum vocabit in seisina sua, co. With whom agreeth Fleta faying that marrantizare nibil alindest, quam possidentem defendere, li. 5. ca. 15. 5. 1. 6 lib. 6. ca 23. quod lege per totus. And the for-

mer division of lineall and collaterall warranty, rather belongeth to warranty in this fecond signification then the former.

And that this way it is imperfect or at the least obscure, I thinke it not hard to declare. First to shew this I note out of Bratton, who may be called to warrantie. And he lib. s.tra-Etat. 4. cap. pri.num. 5. faith thus: Videndum est quis vocari possit ad warrantum, & (ciendum, quod tam masculus quam fæmina, tam minor quam maior (dum tamen si miner vocetur, remaneat placitum de marantia in suspensovsa; ad atatem, nisi causa fuerit ita fauorabilis, anod etas expectarinon debeat, ficut ex cansa Dotis) Item non solum vocandus est ad warantum ille qui dedit, vel venddit : verum etiam vocandi sunt corum beredes descendentes in infinitums propter verba in Chartis contenta. (Ego & haredes mei warantizabimus tali & keredibus (uis, &c.) Et in que casu tenentur haredes warantizare, five fint propingui, sive remoti, remotiores, vel remotissims. Et quod de haredibus dicitur idem dici poterit de assignatis, & de illis, qui sunt loco illorum haredu, sicut sunt capitales Domini qui tenentibus suis quasi succedunt, vel propter aliquem defectum, vel propter aliquod delictum, ficut de eschaetis Dominorum: By which words we perceive that

that the burden of this warrantie is not tyed to heires only, be they in the descending or collaterall line, but that vnder this word (Harêdes) are comprifed all fuch, as the first warranters lands afterward come vnto either by discent, or otherwife ex causa Incratina So that if a man have 20 . children ver if he will, and may give his land to a strauger, leaving his childre no land: that straunger in this case is his assigne, &is conreined under this word, heire. So if he commit felonie after fuch warrantie covenanted, and for feit his lands to his Lord by escheate: the Lord is quali hares in this case, and lyable to the warrantie formerly passed. And in these two later cases, warranty in the second significarion feemeth to be neither lineall nor collaterall at the least as Litleton, and the other author have defined, or by examples expressed them.

But yet let vs define these two species, as they be, wherefore lineall warranty is that, which he is called vnto by the tenent, vpon whome the land warranted had descended, if the warranty had not been couenanted. For example; A selleth to B.20. acres land with clause of warranty, and afterward dieth leaning issue. C. soone after B.

is impleaded for this land by D. and voucheth. C. This is called a lineall warranty: because but for it the land had descended from A. to C.

Warranty collaterall, is that wherevnto he is called by the tenent ypon the couenant of him, from whome the land could not descend to the party called. For example: B. the sonne pourchaseth tenements in fee, whereof A. his father diffeiseth him, and felleth them to C. with a clause of warranty. A being deade, C. is impleaded for the tenements, and calleth B. to warranty. This warranty wherevnto B.is caled. is collaterall: by cause the tenements, if the warrnty had not beene couenanted by A. could not have descended from him to his father A. for they were his owne by Pourchase. Many other exaples there be of this in Litleton. And this very case he maketh his example of warranty by diffeifin, as also of warranty collaterall. which plainly argueth, that warranty by diffeifin, and warranty collaterall, are not distinct members of warranty, but may be confounded: though one warranty may cary both names in diuers respects. For there is fome warranty collaterall that beginneth not be disseifin. For

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example. A . tenent in taile, alienateth to B. in fce, and dieth leaving iffue. C. Afterward. D. brother to A. and vncle to C. releafeth to B. with warranty, and dying leaveth. C . his heire being next of blood vnto him. This warranty is collaterall, because it descendeth vpon. C. from his vncle. D. and yet it beginneth not by dessein of his said vncle.

Warranty, hath a double effect: one to debarre him vpo whome it discendeth from the first warranter as his next of blood. from claiming the land warranted: aud another to make it good to the tenent, if by him he be vouched thereunto, or els to giue him as much other land by exchange. But as the former of these effects taketh place with all heires, except those to whome the land warranted was intailed, and that reapeno equivalent benefit by the first warranter. anno 6. Ed. pri, ca. 3. foe the latter prejudiceth none that receiueth not sufficient land from the first warranter to make it good. Bradon, lib. 5. trattat. 4. ca. 8. nu. pri. & cap. 13. nu. 2. In the custumarie of Norm. ca. 5. you have veuchement de garant, which the Interpreter translateth, Vocamentum Garanti. a voucher or calling of

the warranter into the court to make good his fale or gift.

: Warantia diei, is a writlying in case, where a man hauing a day affigued personally to appeare in court to any action wherein he is flewed, is in the meane time by commaundement imployed in the Kings feruice, fo that he cannot come at the day affigned. This writ is directed to the Justices to this end, that they neither take nor record him in defaulte for that day. Register originall, fol. 18. Of this you may read more in Fitzh. nat. br. fol. 17. and see Glannile, lib. pri.ca.8.

Warantia charta, is a vrit that lieth properly for him who is infeoffed in land or tenements with clause of warranty, and is impleaded in an Assiste or writ of Entrie, wherein he cannot vouche or call to warranty: for in this case his remedy is, to take out this writ against the seoffour or his heire. Register orig. fol. 157. Fuzh.nat.br: fol. 134. Of this you may likewise reader Fleta, lib. 6. ca. 35. and West parte 2. simb. titulo Fines. sett. 156.

Warrantia custodia, is a writ Iudiciall, that lyeth for him that is challenged to be ward vnto another, in respect of land said to be houlden in Knights seruice, which when it was bought

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by the auncesters of the ward, was warranted to be free from such thraldome. And it lieth against the warranter and his heires, Register Iudiciall, fol. 36.

Warrant of Atturney See Leter

of Atturney, and Waranty.

Wardwite significat quietantiam misericordia in casu quo non invenerit quis kominem ad wardum saciendam in castra, vel alibi. Fleta

lib. 1.cap. 47.

Warren (Warrenna, alas varrenna) commeth of the French (Garrenne.1. vivarium, vel locus in quo vel aves, velpisces, velfera continentur, que ad victum duntaxat pertinent) Calapine out of Aulus Gellius.lib. z. Noct. Attıca: cap. 20. A warren (as we vie it) is a prescription or graunte from the king to a man of having fefants, partridges, connies, and hares, within certaine of his lands, Cromptons Iurifdict. fol. 148. where he faith, that none can have warren, but onely the King, no more then Forest or chase. Because it is a speciall priviledge belonging to the King alone. And a little after he hath words to this effect: The king may graunt warren to me in mine owne lands, for fefants and partridges onely. And by this graunt no man may there chafe them without my licence. And fo of Hares, but not of Connies. For their property is to destroy the fruites of the earth . as to eate corne, and pille the barke of apple trees. M. Manwood in his first part of Forest lawes faith thus of it: A warren is a fraunchise or priviledged place of pleafure. onely for those beasts and foules that are beafts and foules of warren, tantum campestres et non syluestres. viz. For such beasts and foules as are altogether belonging to the feilds, and not vnro the woods: and for none other beafts or foules . There are but two beafts of warren, that is to fay Hares and Connies and there are also but two foules of warren, viz. Fefants and partridges. And none other wild beafts or birds have any firme peace. priviledge, or protection, within the warren. If any person be found to be an offender in any fuch free warren, he is to be punished for the same by the course of the common law, and by the statute. auno 21. Ed. 3. called the statute de male factoribus in parcis & chaceis &c. For the most parte there are noe officers in a warren , but the master of the game, or the kecper. A free warren is some time inclosed, and also the same some time doth lie open. for there is no necessity of inclosing the same, as there is of a park, for if a park be suffered to lie open, kings hands. Thus farre M.

Warscot, is the contribution, that was wont to be made to-wards armour in the Saxons time. In Canutus his charter of the Forest set out by M. Manwood in the first part of his Forest lawes, num. 9. you have these wordes: Sint omnes tam primarii quam mediocres, & minuti, immunes, libers & quietrab omnibus pro-uincialibus summonitionibus, & popularibus placitis, que Hundred laghe Angli dicunt, & ab omnibus armorum oneribus, anod Warscot Angli dicunt, & forinsecis querelis.

VVarwit, alias, VVardwit, is to be quite of giuing money for keeping of watches. New exposition of lawe termes.

VValte (vastum) commeth of the French (gaster. i. populars.It fignifieth diversly in our common lawe, first, a spoile made, either in houses, woods, gardens, orchards, &c. by the tenent for terme of life, or for terme of anothers life, or of yeares, to the prejudice of the heire, or of him in the Reversion or Remainder. Kitchin fol. 168. Gc. v sque 172. vpon this committed the writ of waste is brought for the recoucrie of the things, whereupon the waste is made. See Vasto. VVaste may be also made of tenents or bond-

men belonging or regardant to the maner. Regist. orig. fol. 72. a. & 73. a. See the new booke of Entries. verbo V Vafte. A waste of the Forelt (as M. Manwood faith, parte prim . of his Forest lawes, pag. 172.) is most properly where any man doth cut downehis owne woods within the Forest, without licence of the king, or of the Lord chiefe Iustice in Eyre of the Forest. But it is also, where a man doth plow vp his owne medow or pasture, and converterh it voto tillage. And of this you may reade him at large, in his fecond part, cap. 8. num. 4. 6 5. VVafte in the second fignification is taken for those parts of the Lords Demelis, that be not in any one mans occupation, but lye common for bounds or paffages of the Lord and tenent from one place to another, and fomtimes for all the Kings subjects. VVhich seemeth to be called waste, because the Lord cannot make such profit of it, as he doth of other of his land, by reason of that vse which others have of it in paffing to and fro. Vpon this none may build or feed, or cut downe trees, without the Lords licence. VVafte hath a third fignification, as yeare, day, and waste. Annus, dies, & vaftum which is a punishment or forfeiture be-Bbbb 2 longing

longing to petit treason, or selonie: whereof you may reade Stawnf. pl. cer. lib. 2. cap. 30. And see Yeare, Day, and VVaste.

VVasters. anno 5. Ed. 3. cap. 14 See Roberds men. Sec Draw lat-

ches.

VVastellbreade, anno 51.H.3. statute of bread, and statute of pilorie.

VVaier bayliffes, seeme to bee officers in port townes for the searching of shippes, anna 28.

H. 6. cap. 4.

Watling freet, is one of the 4. wates, which the Romaines are faid to have made here in England, and called them Confulares. Pretorias, Militares, Publicas. M. Camden in his Britannia, perswadeth himselfe that there were more of this fort than 4. This streete is otherwise called Werlam streat, (as the same author faith, and howfoeuer the Romains might make it and the rest, the names be from the Saxons. And Roger Houeden faith, it is so called, because the fonnes of Wethle made it, leading from the East fea to the West. Annal. part. prior. fol. 248. a. This street leadeth from Doner to London, and fo to S. Albons, and there onward directly toward the North-west through the land, as from Donstable to Westchester. anno 39. El. cap. 2. the second street is called Ikenild freet, beginning ab Icenis, who were the people inhabiting Northfolke, Southfolke, and Cambridge shire , as M. Camden declareth, pag. 245. The third is called Toffe: the reason of the name he giveth, because he thinketh it was ditched of each fide. The fourth is called Ermin freet. Germanico vocabulo, à Mercurio. quem sub nomine Irmunsull. i. Mercurii columna, Germani maiores nostri coluerunt. Of these reade more in the faid author, pag. 43. & 44. In the description of England going vnder Saxons name, cap. 7. I reade that Belinus a Briton king made these 4. wayes: whereof the first and greatest he calleth Fose, ftretching out of the South into the North, and beginning from the corner of Cornwel, and paffing foorth by Denonshire, Somersetthre, and fo along by Tetburie ypon Tote su culd besides Conentree vnto Lecester, and thence, by the wide plaines to Newarke and to Lincolne where it endeth. The fecond he nameth Watling Arcet, comming out of the South-east toward the Fosse, beginning at Dover, and paffing through the middle of Kent ouer Thames beside London nere Westminster, and thence to S. Albons, by Donstable, Stratford, Tomceter, Wedon, Lilborn, Atheriston, Gilberts hill, now called Wreaken, by Se-

uerne, Workecester, Stratton, and fo foorth by the middle of wales. vnto Cardican and the Irish feas. The third he calleth Erminage-Greet, Aretching out of the West North-west into the East Southeast, from S. Dauids in the west Wales vnto Southbamtton. The fourth he called Rikewild Greet. firetching foorth by Worcester, by Wicombe, Brinningham, Litchfield, Derby, Chesterfield, and by Yorke foorth into Tynmouth. But he that lifteth to reade at large of these wayes, let him haue recourfero the first volume of Helinsheds Chronicle, and the description of England there, the 19. chapter. Where this antiquitie is farre otherwife declared, then by the former writer. Henry of Huntington likewise in the first booke of his historie, not farre after the beginning mentioneth thefe 4. Arectes, terming them calles Regia sublimatos authorstate, ne aliquis in eis inimicum invadere anderer .Gc.

Waterbayliffes. anno 28. H. 6. cap. 5. is an officer belonging to the citie of London, which hath the supervision and search of fish, that is brought to that citie, as also the gathering of the tolle rising from that water. He is reckoned an Esquier by his office, as the Sword-bearer, the Huntsman, and the chiefe Sergeant is. He also attendeth ypon

the Lord Major for the time being, and hath the principall care of marshalling the guests at his table.

Way. See Chimin.

Weife (wavium) whence it hath his originall, I cannot certainely fay. But I finde the nineteenth chapter of the Grand Custumary of Normandy to be intitled (De choses gaines) and latined by the interpreter (De rebus vainis) which are there thus defined: vaiua sunt res, vel alia, que nullius proprietati attributa, sine possessionis reclamatione funt inventa, que vG; ad diem & annum seruanda sunt. Et de iis medo, quo dictum est de veriscis, that is (neeks) ea sua effe probantibus est restitutio facienda, co. This neife or things neined have the very same fignification in our common law, and be nought but things forfaken. The Civilians call it (Derelictum) or (Quodest pro derelicto) Bracton in the twelue chapter of his first booke nu. 10. reckoneth them interresque sunt nullius ea que pro mainio babentur: sient de aueriis, vbinon apparet Dominus, where he also saith, quodolim fuerunt inuentoris de iure naturali, & iam efficiuntur principis de iure Gentium. That this is a Regality, and belonging to the King, except it be challenged by the owner within a yeare and a day, it appeareth by Britton in his Bbbb 3 feuen-

uenthteene chapter. Now the Kings in their times have graunted this and fuch like prerogatines vnto divers subjects with their fees, who there likewise faith that weifes . things loft, and estrayes, must by the Lord of the fraunchife where they are found, be caused to be cried and published in markers and churches nere about or elsthat the yeare and day doth not runne to the prejudice of him that hath loft them. See Waine. M. Skene de verborum signifi.verb. maife, faith, that waife est pecus, vel animal aberrans, which wanders and wauerrs without a knowne master, and being found by any man within his owne bounds, must be by him proclaimed vpon diuers, and fundry market daies, at the parish church, and within the shyreeuedome. Otherwise the deteiner may be accused of theft. And it is lawfull for the owner to challenge the beaft within a yeare and day. Whereby it appeareth, that in Scotland that is called a weife which we heere call a stray or e-Aray.

Weald of Kont, is the wooddie part of the Countrie. Camden Britannia, pag. 247. M. Verstegan in his restitution of decayed intelligence saith, that Wald, Weald, and Would differing in vowell, fignifie one thing, to wit a Forest. See the rest lucra. W.

Wedding (Nuptia) commeth of the German (wed), i. pignus. and wedde in Scotland fignificth fo much at this day. Skene deverborum fignifi. verbo Vadium.

Weigh (waga) is a certaine waight of cheefe or wooll, conteining 256, pounds of avorr de

poyce. See Clove.

Weights (Pondera) what they be, it is wellknowne. There be 2. forts of them in vie with vs. The one called Troy weight, which conteineth 12. ounces in the pound, and no more: by the which, pearl, pretious stones, electuaries, & medicinal things, gould, filuer, and bread be waied: The other is called Auer de pois, which conteineth 16. ounces in the pound. By this all other things are waied, that passe betweene man and man by weight, fauing onely those aboue named . why the one should be called Troy weight, I haue not learned . though I reade it termed libram er vnciam Troianam : as if it came from Troy. But Georg. Agricola in his learned tractate de ponderibus & mensuris.pa. 339. termeth the pound of 12. ownces libram medicam, and the other of 16. ownces libram ciuilem. faying thus of them both: Medica & civilis libra, numero non

grauitate unciarum different. The second seemeth soe to be termed by reason of the more full weight. for (Avoir de pois) in French, isas much to fav, as to have full weight. But by these words (Avor de pois)are some time signified such marchandies as are bought and fould by this kinde of weights. the first statute of Yorke anno 9. Ed. 3. in proxm. & anno 27. Ed. 3. fat. 2. ca. 10. & ann. 24 H. 8. ca. 13. Of weights in Scotland. See Skene de verb: signif. verbo Serplathe. All our weights and measures haue their first compofition from the peny sterling which ought to weigh 32. wheat corns of a middle fore, twenty of which pence make an ownce and twelve fuch ownces a pound or twenty shillings, but 15. ownces make the Merchants pound. Fleta, li. 2. ca. 12. It is not volike that this merchants pound, though an ounce leffe, should be all one in fignification with the pound of anoir de pois: and the other pound, called by Flata trone weight, plainely appeareth to be all one with that which we now call troic weight. And I finde not Troie weight mencioned by any other that euer I read vpon this subject, but onely our owne contry men. See Tronage.

Weights of Awncell, anno 14.Ed. 3. fat. pri.c. 12. Sec Auncell weight.

Were, alias werre significth as much as (Afimano capitis, ant pretin hominis. M. Lam. exp. of Saxo words, verbo: Atimatio. That is to say, so much as one paid for killing of a man. Wherebyhe gathereth that flaughters, and fuch other great offences, were more rarely committed in auncient times, then now when as for the multitude of offenders, death is most justly inflicted forthose crimes, that then were redressed by pecuniary mulcts. Of this fee Roger Houeden, parte poster suorum annalium in Henrico 2. fo. 344.

Weregelt thof, significat latronem qui redimi potest wera enim anglicè idem est in Saxonislingua, vel pretium vita hominis appretiatum.

Fleta lib. I. va. 47.

West Saxon lage, alias West fex-

enlage. See Lawe.

Wharfe (wharfa) is a broad plaine place neare to a Creeke or hithe of the water, to lay wares vpon, that be brought to or from the water to be transported to any other place. New booke of Emries, fol. 3.col. 3.

Wharfinger, is the keeper of a

wharfe, anno 7. Ed. 6. ca. 7.

White hart filner (Candidi Cerui argentum) is a tribute or mulet paid into the Eschequer out of the Forest of white hart: which (as M. Camden reporteth in his

Bri-

Fritan.pag. 150.) hath continued from Henry the thirdstime, and was impoted by him vpon Thomas De-la-linde, for killing of a most beautifull hart, which himselfe before had purposely spared in hunting.

Widow (vidua) feemeth to come of the French (vide i inanitus exmanitus) or the verb (vuider i. inaniare) quasi primata atq; orba marito. Macrobius lib. pri. faturn, ca. 15. draweth it from the Herruscan verb (Iduare il dinide re. Unde vidua quasi valde idua i. valde dinisa: aut vidua.i. a viro dmifa. The fignification with vs is apparent. But there is one kinde of widow, called the widow of the King, or the Kings widow (vidaa Regis) that requireth exposition. And shee is that widow, which after her husbands death being the Kings tenent in capite, is driven torecouer her Dower by a writ De dote affiguands. Of whom you may read Stawnf: prarog. cap. 4. The words of the statute of the prerog: made anno 17. Ed. 2. be thefe. Item assignable viduis post mortem virorum suorum, qui de co tenuerunt in capite, dotem fuam, que eas contingit, &c: licet heredes fuerint plena atatis, si vidua voluerint. Et vidua illa ante assignationem dotis sue pradicte, sue heredes plene etatis fuerint, sine infra atatem, iurabunt, quod se non maritabunt fine! licentia Regis. Tunc Rex copiet in manum suam nomine districtionis omnes terras, & tenementa, que de entenentur in dotem, donec satisfecerint ad voluptatem suam: ita qued ipsa mulier mibil capiet de exitibus. Gc. quia per buiusmodi districtiones buiusmodi mulieres, seu viri eorum finem facient Regical voluptatem suam. Et illa volunt as tempore Regis Henrici patris Regis Edwardi estimariconsueuit ad valentiam pradista dotis per vnum annum ad plus, nisi vlteriorem gratiam habuerint. Muheres, que de Regetenens in capite aliquam hereditatem, invabant similiter, emuscung, fuerint atatis. quod se non maritabant sine licentia Regis. Et si fecerint, terra & tenementa ip sarum eodem modo capiantur in manum Domini Regis, quousq satisfecerint ad voluntatem Regis. Of this fee likewise the great charter cap. 7. whereby it appeareth that other common Lords haue the same power ouer their widowes, touching their consent, in their mariage, that the King hath. Of this you may read more in the writ De dote affinanda. Fitzh., nat. br. fo. 263. C. See also the statute anno 32. H. 8. cap. 46.

Windelesor. a Herald. See He-

Withernam (veritum Namium)
Master Limberd thinketh to
be compounded of (wither.
i. altera, pur (countage)

pignoris captio) marueiling much why it should so farre be depraued in the interpretation, as to be translated (vetitum Namium.) Reade him in the explication of Saxon wordes, verbe, Pignorari. The concord of the thing fignified with the meaning of the Latine words, maketh some to thinke, that it is compounded of (mehren. i. veto,) and (nyman,) or nemmen. i. capio.) For withername in our common lawe is the taking, or driving a distresse to a hould, or out of the countie, fo that the Shyreeue cannot vpon the repleuin make deliuerance therof to the partie distreined: In which case, the writ of Withernam, or de vetito Namio is directed to the Shyreeue, for the taking of as many of his beafts that did thus vnlawfully distrein, or as much goods of his, into his keeping, till that he hath made deliuerance of the first distresse. Also if the beastes be in a fortlet or castell, the Shyreeue may take with him the power of the countie, and beat downe the castell, asit appeareth by the Statute. Westm. pri. cap. 20. Britton. cap. 27. But M. Lamberds interpretation feemeth more consonant to the writ, the forme whereof is thus in part, (Fitz. nat. br. fol. 73.) Tibi precipimus quod averia pra-

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disti B. in Balliva tua capias in withernam Gc. and the Register orig. fol. 82.6 82.6 79.a.6 80. a.and in the Register Indic. fol. 29 a. & 30. a. Whereby it appeareth, that the Shyrecue by these words is willed to take in compensation of the former taking, fo many cattell, &c. But yet this may qualifie M. Lamberds maruelling, because they that translated this word into fuch Latine, seeme to haue bene deceived by the propinquitie of the word, (webren) both to the word (withernam) and also to the meaning. This error (if it be an error) hath a probable likelihood of descent from the Normans, as appeareth by the grand Custumarie. cap. 4. where you have wordes to this effect: Deficientes (C. Balmos) facere insticiari, & ea, de quibus indicium vel recordatio babet sieri in curia: debet (sc. Iusticiarius) retrabere vel recitare. Treugam dari debet facere, qued est assecuratio pacis observanda. Nampta iniuste capta per ius facere liberari, &c. Here you may see (nampta) referred to the first taking or distresse, which is vnlawfull. Sir Thomas Smith in his Repub. Anglor.agreeth with M. Lamberd in these words: This (withernam) he (meaning Litleton, with whom Bracton also agreeth. lib. 2. cap. 5. 6 lib. 3. sract. 2. Cccc I cap.

cap. 36.) interpreteth vetitum Namium, in what language I know not. Whereas in truth ir is in plaine Durch, and in our old Saxon language (wither nempt. i. alterum accipere, alterum rapere.) a word that fignifieth all one with that barbarous Latine word, (Reprasalia) when one taking of me a distresse, which in Latine is called (pignus) or any other thing, and carying it away out of the Iurisdiction, where I dwell, Itake by order of him that hath iurisdiction, another of him againe, or of fome other of that Iurisdiction; and do bring it into the jurifdiction. wherein I dwell: that by equall wrong I may come to have equallright, &c. Namatio animalium in Scotland is vied for the pounding of cattell, Skene de verbor. signif. verbo, Averia: whom also reade, verbo, Namare. Wi thernam in Bracton lib. 3. tract. 2. cap. 37. and also in Westm. 2.ca. 2. leemeth to fignifie an vnlawfull distresse, made by him that hath no right to distreine. an. 13. Ed. prim. cap. 2. See the newe booke of Entries. verbo Withernam.

Woad, (glastum) is an herbe brought from the parts of Tolouse in France, & from Spayne, much vsed and very necessary in the dying of wollen cloth. an 7. H. 8. cap. 2. we call it moad of the

Italian word (guado) or the Germane word (weidt.)

Woodgeld, seemeth to be the gathering or cutting of wood within the Forest, or money payed for the same, to the vse of the Foresters. And the immunitie from this by the Kings graunt, is by Crompton called Woodgeld. fol. 197.

Woodmen, seeme to be those in the Forest, that have their charge especially to looke to the Kings woods. Manwood parte pri. of his Forest lawes pag. 193. and Cromptons Iurisd. fol. 146.

Woodmote court, is the Attachment of the Forest. Manwood parte pri. of his Forest lawes. pag. 95. See Attachment.

Woodward (Woodwardus) is an officer of the Forest, whose function you may partly gather by his oath fet downe in Cromptons Iurifd. fol. 201. which M. Manwood hath also in his first part of his Forest lawes pag. 50. to the same effect, but something more at large. viz. You shall truly execute the office of a woodward of B. woods within the Forest of W. folong as you shalbe woodward there : you shall not conceale any offence either in Vert or in Venison, that shalbe committed or done within your charge: but you shall truly prefent the fame, without any fauour, affection or reward. And if you doe see or know any malefactors, or doe finde any Decre killed or hurt, you shall forthwith doe the verderour vnderstand thereof. And you shall present the same at the next court of the Forest: be it Swainmote, or court of Attachments, so help you God. Woodwards may not walke with bow and shalts, but with Forest bills. Mannood parte priof his Forest lawes pag. 189. and more of him pag. 97.

Wooldriver, anno 2. & 3. Ph. & Ma. ca. 13. be those that buy wool abroad in the country of the sheep masters, & carry it by horse backe to the clothyers or to market townes to sell it a-

gaine.

Weolferthfod (Caput lupinum) is the condition of those, which were outlawed in the Saxons time, for not yelding themselues to Iuffice. For if they could be taken aliue, they must have bene brought to the King: and if they in feare of apprehension did defend themselves they might be flaine, and their heads brought to the King. For they carried a woolues head, that is to fay: their head was noe more to be accoumpted of, then a woolues head, being a beast so hurtfull vnto man. See the lawes of K. Edw: fet out by M. Lamberd fol. 127.b.nu.7. The very like whereof Bracton also saith lib. 3. tract

2. ca. 11. See velarie. Roger Houeden writeth it (Wulnesheued.
parte poster, suorum annalium sol.
343.b.) whom read of this mater
because you shall there see what
it was in those daies to violate
the peace of the church.

Woolstaple, amo 51. H. 3. stat.

5. See Staple.

Wooll winders, be fuch as winde vp enery Reece of wooll that is to be packed and fould by weight, into a kinde of bundle after it is clensed in such maner as it ought to be by statute. And to avoide such deceit as the owners were wont to vie by thrusting locks of refuse wooll and fuch other droffe to gaine weight they are sworne to performe that office truly betweene the owner and the merchant. See the statute, anno 8. H. 6. cap. 22. 6 anno 23. H. 8. ca. 17. 6 anno 18. Eliza. ca. 25.

Would. See Weald.

Wranglands, seeme to be misgrowne trees that will neuer prooue timber. Kuchin fol. 169. b.

Wormseede (semen santonicum) is medicinal seede browght forth of that plant which in latine is called (Sementina) in english, holy wormwood, whereof you may read in Gerards herballe li. 2. ca. 435. This is a drugge to be garbled, anno 1. Iacob. cap. 19.

Cccc 2 Wreck

Wreck (wreccum vel wrestum maris) is the losse of a shippe and the goods therein conteined by tempest, or other mischannee at the fea. The Civilians call it (Naufragium) This wreck being made, the goods that were in the thippe, being brought to land by the waves, belong to the king by his prerogative. And therevpon in many bookes of our common lawe the very goods, so brought to land are called wreck. And wreck is defined to be those goods which are so brought to land. Sir Ed. Coke vol. 6. relatio, f. 106.a. & the statute anno 17. Ed. 2. ca. 11. in these words. Item Rex babebit wreccum maris, per totum Regnum, ballenas, & sturgiones captas in mari vel alibi infra Regnum, exceptis quibu (dam locis privilegiaris per Regem. Whereby it appeareth that the King hath them, or fuch as haue by graunt this libertie or priviledge of him. And that this statute doth but affirme the auncient lawe of the land, it appeareth by Bra-Eton, lib. 2. cap. 5. num. 7. his verbis: Suntetiam alia res que pertinent ad corona propter privilegium Regis, & ita communem non recipiunt libertatem, quin dari posfint, & ad alium transferi. Quia s transferantur, translatio nulli erit

damnosa, nisi ipsi Regi siue principi. Et si huiusmoderes alicui concesla fuerint ficut wreccum maris, erc. The reason of this he toucheth shortly in his first booke. cap. 12. num. 10. where he reckoneth these goods (iure naturali) to be (in tonis nullius) quia non apparet Dominus eorum, sed sure Gentium sieri principis: And see him also, lib. 2, cap. 24. num. 1. 6 2. It is worth the asking to know what is a wreck, and what not in this Aricler fignification. And the author of the termes of lawe faith, that if any person of the shippe come to land, it is not a wreck, or the wreck is not fuch, that the king ought to hauethe goods. with whome agreeth S.Ed. Coke vol. 6.f. 107.a. No, if either Dogge or Catte escapealiue to the land : the goods are the owners still, fo he come within a yeare, and day to claime them . And for this the statute is plaine Westm.pri.ca. 4. anno 3. Edm. pri. which do-Etrine Fitzh. in his nat. br. fol. 112. E. extendeth thus farre, that if any of the goods be cast vpon the drie land by any in the shippe, it is no wreck subject to the prerogative, for by this some of the shippe are presumed to come to land, and still to have a custodie of the goods.

Grand Custumarie of Normandie. cap. 17. is called (varech) and latined (verifoum) where it appeareth that the like lawe to ours was in Normandie al. most in all points. But some forts of their pretious Merchandife doe by their lawe appertaineto the Duke by his prerogative, though a just challenge of the goods be made within the yeare and day. The Emperours of Romemade no advantage of this pitifull event, as appeareth: titulo De Naufragiis 11. Cod. And it appeareth that Richard the first had fome remorse of poore sea mens miseries in this case. For he quietum clamavit wreck suis subditis. Rog. Hoveden parte poster. suorum an nal. fol. 386.Of this M. Skene de verb. signif. speaketh to this effect:wreck fignifieth a power, liberty, and prerogative appertaining to the King, or to any person, to whome the same is graunted by him by feofment, or any other disposition, to take vp and gaine such goods as are shipbroken, or fall to him by escheate of the sea.

Writ, (breue) is that with our common lawyers (in Sir Tho. Smiths judgement lib. 2. de Repub. Anglorum.cap. 9.) which the Civilians call (Actionem, fine formulam) But I am rather of his judgement, that hath added the

marginall note vnto him, faying that (Actio) is the parties whole fuite: and that (Brene) is the kings precept, whereby any thing is comaunded to be done touching the fuite or action: as the defendant or tenent to be summoned, a distresse to betaken, a disseisin to be redressed.&c. And these writs are diverfly divided, in divers respects. Some in respect of their order, or maner of graunting, are termed originall, and some Iudiciall . Originall writs be those, that are fent out for the fummoning of the Defendant in a personall, or Tenent in a reall action, or other like purpole, before the suite beginneth, or to begin the fuite thereby Those be judiciall, that be fent out by order of the court, where the cause dependerh, vpon occasion growing after suite begunne. old.nat.br.fol. 51. And Iudiciall is thus by one figne knowne from the Originall, because the Teste beareth the name of the chiefe Iustice of that Court whence it commeth, where the Orig. beareth in the Teste the name of the Prince. Then according to the nature of the action, they be personall or reall: and reall be either touching the possession, called writs of Entrie, or the property, called writs of right. Fitzb

Ccec 3

Fitzh. nat. br. sparsim per totum.
Some writs be at the suite of a party, some of office. old. nat. br. fol. 147. Some ordinary, some of priniledge. A writ of priniledge is that which a priniledged person bringeth to the court, for his exemption, by reason of some priviledge. See Procedendo. See the new booke of Entrife. verbo. priviledge. See Briefe.

Writ of rebellion. See Com-

million of rebellion.

Writer of the talies (Scriptor talliarum) is an officer in the Exchequer being clerk to the auditour of the receipt, who writeth vpon the talies the whole letters of the tellers billes.

Y

Yard land (Vingataterra) is a quantitie of land called by this name of the Saxon (Gyrdlander (but not so certaine a quantity, as that it is all one in all places. For in some country it conteineth 20. acress in some 24. in some 30. as M. Lamb. sath in his explication of Saxon words: verbo vingataterra. This yard land Braston calleth (vingatam terra. lib. 2. cap. 20. & 27.) but he expresseth no certainty what it conteineth.

Tere and day (annus & dies) is a time thought in construction of our common lawe fit in many cases to determine a right in one, and to worke an viucapion or prescription in another. As in a case of an estray, if the owner (proclamations being made) chalenge it not within that time, it is forfeit. So is the yeare and day given in case of appeale, in case of descent after entry or claime; of no claime vpon a fine or writ of right at the common lawe: so of a villein remaining in auncient demeane, of the death of a man fore bruised or wounded : of protections; essoines in respect of the Kings service: of a wreck, and divers other cases Coke. vol. 6. fol. 107.6. And that touching the death of a man seemeth an imitation of the civile lawe. Nam si mortifere fuerit vulneratus & postea post longum intervallum mortuus sit inde annum numerabimus secundum lulianum.l. ait lex . a. ad lege Aquil.

Teare, day, and waste, (annus dies, & vastum) is a part of the Kings prerogative, whereby he challengeth the profits of their lands and tenements for a yere, and a day, that are attainted of petit treason or felonie, whosoever be Lord of the maner, whereunto the lands or tenements do belong, and not onely so, but in the end wasteth the tenement, destroyeth the houses, rooteth up the woods, gar-

dens,

dens, pastures, and ploweth vp medowes, except the Lord of the see agree with him for the redemption of such waste, asterward restoring it to the Lord of the see. Whereof you may reade at large in Stamps, prarog. cap. 16. fol. 44. & legg.

Toman seemeth to be one word made by contraction of two Danish words (yong men) which I gather out of Canutus Charter of the Forest set out by M. Manwood parte prim. fol. prim. num. 2. in these words: Sunt sub quolibet horum quatuor ex mediocribus hominibus, quos Angli (Legespend) nuncupant, Dani vero (yong men) vocant, locati, qui curam & onus tum viridis tum veneris Suscipiant. These M. Camden in his Britan. pag. 105. placeth next in order to Gentlemen, calling them (Ingenuos) whose opinion the statute affirmeth, anno 16. R. 2. cap. 4. whereunto adde the statute anno 20. einsdem Regis cap. 2. Sir Thomas Smith in his Repub. Anglor. lib. prim. cap. 23. calleth him a Yoman, whom our lawes call legalem hominem: which (as he faith) is in English a Free man borne, that may dispend of his owne free land, in yerely reuenew, to the summe of forty shillings sterling. Of these he writetha good large discourfe, touching their estate and vic in this common wealth. The

former etymologie of the name he liketh not, making question whether it come of the Dutch (yonker) yea or not, which in the Low countries fignifieth 2 meane Gentleman, or a gay fellow. But he that hath added the marginall notes to that booke, seemeth to drawit from the Saxon (Geman) which fignifieth a maried man. M. Versteg an in his restitution of decayed intelligence, cap. 10. writeth, that (Gemen) among the auncient Tentonicks, and (Gemein) among the moderne, fignifieth as much, as Common, and that the first leter G. is in this word, as in many others, turned into Y. and fo written Temen, and that therfore Yemen, or Yeoman signifieth so much as Commoner. Yoman fignifieth an Officer in the Kings house, which is in the middle place betweene the Serge ant and the Groome: as Yoman of the Chaundrie, and Yoman of the Scullerie. anno 33. H. 8. cap. 12. Yoman of the Crowne.anno 3. Ed. 4. cap. 5. & anno 22. einf. cap. I. & anno 4. H. 7. cap. 7. This word (Yongmen) is vsed for Yomen in the statute. anno 33. H. 8. cap. 10.

Ta Osa Doža.

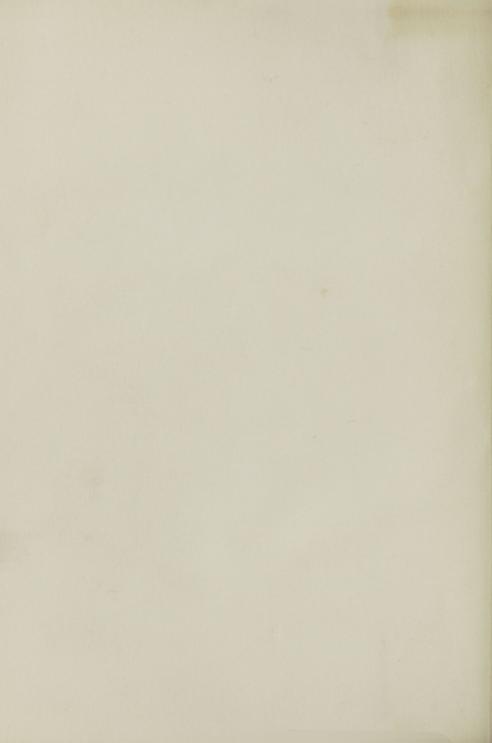
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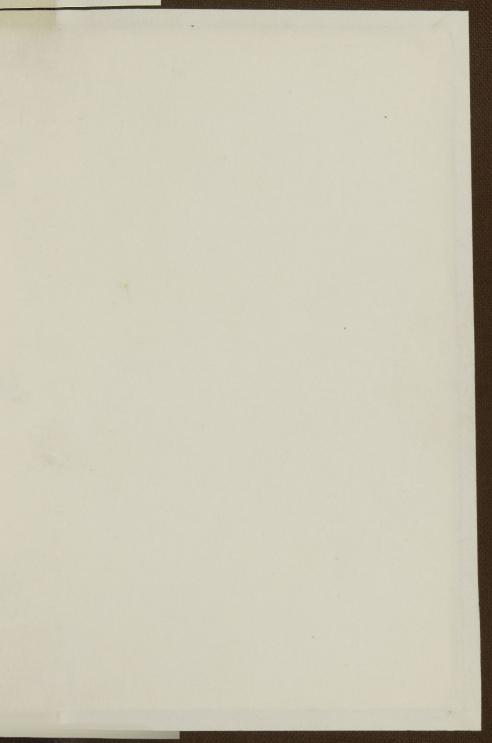


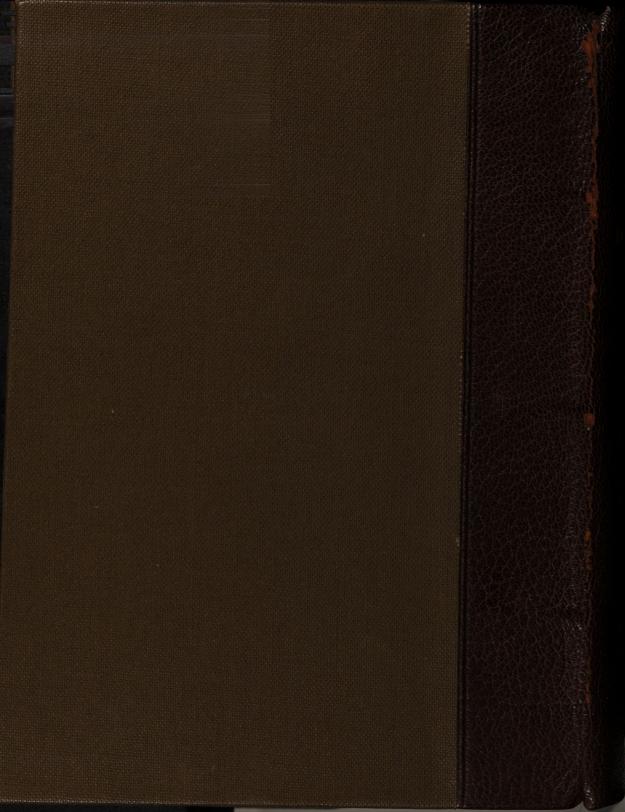












THE INTERPRETER

COWELL

